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OSHA OVERSIGHT—STATUS OF FEDERAL AGENCY HEALTH AND SAFETY PROGRAMS

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND SAFETY

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, JUNE 12, 1985

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OSHA OVERSIGHT—STATUS OF FEDERAL AGENCY HEALTH AND SAFETY PROGRAMS

WEDNESDAY, JUNE 12, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH AND SAFETY,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 2257, Rayburn House Office Building, Hon. Joseph M. Gaydos (chairman of the subcommittee) presiding.

Members present: Representatives Gaydos and Hayes.

Staff present: Sy Holzman, deputy staff director; Lee Bassford, staff assistant; Dorothy L. Strunk, minority senior legislative associate; and Peter Morgret, minority legislative associate.

Mr. GAYDOS. The committee will be in order. We have three or four hearings this morning with other subcommittees and I don't know if we will get many members here, but we will continue.

As the Federal Government is the Nation's single largest employer whose workers are engaged in a wide range of activities, there is no reason why our concern for the health and safety of those employees should be any less than our concern for employees in the private sector.

This subcommittee's interest in and concern for the health and safety of the thousands of men and women who work in the various agencies of the Federal Government has been constant over the years, as proven by the record. Just a few years ago, the subcommittee conducted a series of hearings on the issue of health and safety for employees in the Federal workplace and, in the intervening years, we have had hearings focusing on individual agencies, often at the request of employees who believed their health and safety was at risk.

Today we are again taking the broad approach, seeking a status report on OSHA's activities in monitoring the health and safety programs of the Federal agencies, as well as an update on how effective the agency plans are or have been.

One area with which I have a particular concern is the hazard communications standard. Now that the Third Circuit Court of Appeals has ruled that the standard should be applied to all workers in the private sector, perhaps our OSHA representative can give us some idea of what will be done to ensure that Federal workers will be afforded the same levels and degrees of protection from hazardous and toxic substances to which they are exposed.

It also might be interesting to know whether all OSHA standards apply to Federal workers, even though OSHA doesn't have any direct jurisdiction over health and safety in Federal workplaces. These things we will address.

On behalf of the committee let me welcome Mr. John Miles, Director of Field Operations, Occupational Safety and Health Administration. The Director has been up here before and we are glad to see him back.

If you wish, Director, without objection, I will at this time accept your submitted statement in its entirety and you may proceed in a manner that you deem best suits your purposes.

STATEMENT OF JOHN B. MILES, JR., DIRECTOR OF FIELD OPERATIONS, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Mr. MILES. I would like to read a short statement.

Mr. GAYDOS. Certainly.

Mr. MILES. Thank you, Mr. Chairman. Thank you for the opportunity to discuss occupational safety and health in Federal agencies.

This subcommittee has devoted a significant number of hearings to this subject. This administration has also stressed the importance of Federal agencies' safety and health programs. We have taken a number of new initiatives since the last time OSHA's Federal agency programs were described to the subcommittee.

In December 1982, the President publicly expressed concern about the rising number of job-related injuries and illnesses of Federal employees and the accompanying cost in suffering, loss of services, and increased compensation payments. In a memorandum to the heads of all executive departments and agencies, the President declared that the Federal Government must set an example in occupational safety and health. He directed them to review existing safety and health programs and, with OSHA's help and advice, to take every step possible to reduce injuries and illnesses.

In October 1983, in a directive to all departmental and agency heads, the President established a Governmentwide goal of a 3-percent annual reduction in workplace injuries and illnesses for fiscal years 1984 through 1988.

Claims data collected under the Federal Employees' Compensation Act [FECA], indicate that 15 of the largest Federal agencies are responsible for 98 percent of the Federal employees' compensation claims and 97 percent of the resulting compensation costs. OSHA focuses its assistance, evaluation, and inspection resources largely upon these agencies.

Executive Order 12196 provides OSHA with the authority to make unannounced inspections in most Federal workplaces. Until 1983, almost all complaints from Federal employees were referred to the agencies for action; for the most part, OSHA inspected a workplace only when an agency failed to resolve an employee's complaint. In 1980 and 1981, OSHA made about 200 inspections in Federal agencies.

In 1983, OSHA issued new instructions to its field personnel outlining procedures for three types of Federal agency inspections:

One, unannounced inspections in response to formal employee reports of safety or health hazards; two, fatality and catastrophe investigations; and three, inspections and assistance visits to targeted high-hazard workplaces.

To encourage workplaces to correct hazards quickly, OSHA sends the head of the workplace an informal "hazard correction list" describing the violations found on the inspection. A formal OSHA citation is issued only if violations on the hazard correction list are not eliminated within 30 days.

In fiscal year 1982, OSHA conducted 308 visits in Federal workplaces. This figure includes responses to employee complaints, inspections conducted in the course of agency evaluations, and technical assistance visits. In fiscal year 1983, the total number of OSHA visits to Federal worksites was 331; in 1984, 1,300; and in the first 7 months of fiscal year 1985, 1,022. Beginning in fiscal year 1984, OSHA began to target inspections to high-hazard Federal workplaces, instead of visiting workplaces only in response to employee complaints or agency requests for technical assistance. To date, OSHA has conducted 430 targeted visits in high-hazard Federal workplaces.

It should be pointed out that much of the most hazardous workplaces at Federal installations is done by private contractors and we inspect those sites frequently. This kind of inspection would, of course, not be counted in the Federal agency inspections.

TRAINING AND CONSULTATION

In the past 3 years, OSHA has made an aggressive effort to share its knowledge with other Federal agencies. In January 1983, the Secretary of Labor sent a letter to the executive departments and agency heads offering OSHA's assistance in implementing the President's injury and illness goals. This was immediately followed by a second letter to all the designated agency safety and health officials, notifying them that OSHA would be identifying high-hazard workplaces and offering services such as training, hazard identification, and abatement advice. OSHA now responds regularly to other agencies' requests for technical assistance. In fiscal year 1984, 586 technical assistance visits were made to other agencies; 637 such visits were completed in the first 7 months of fiscal year 1985.

OSHA also sends a newsletter regularly to all Federal agencies informing them of new OSHA policies and programs.

More than two-fifths of the enrollees in OSHA's Training Institute in Des Plaines, IL, now come from other Federal agencies. In 1984, the Institute trained 2,750 Federal agency employees in a wide variety of safety and health matters. Thus far in fiscal year 1985, 1,834 employees of other Federal agencies have received training at the OSHA Institute.

We have two courses designed specifically for Federal employees and supervisors. Also, OSHA sends training packages to its regional and area offices to be used to instruct Federal employees who cannot attend the Institute.

EVALUATION OF FEDERAL AGENCY SAFETY AND HEALTH PROGRAMS

OSHA also evaluates the complete safety and health programs of other Federal agencies. In these evaluations, OSHA examines the support provided by top management to the agency's job safety and health program, the way in which the agency uses injury and illness data to target resources, the actual implementation of the program in the workplace, and the agency's self-evaluation efforts. In its evaluation, OSHA makes recommendations to the agency head on possible ways of improving safety and health conditions.

Since 1982, OSHA has completed evaluations of the occupational safety and health programs of eight of the larger, more hazardous agencies.

I will outline for you the results of OSHA's most recent evaluations of the safety and health programs of the General Services Administration and the Veterans' Administration to give an idea of the strengths and weaknesses of Federal agency safety and health programs in which the subcommittee has expressed an interest.

GSA was selected for evaluation because it is a large agency with hazardous occupations and has had an injury-illness claims rate higher than the overall Government rate—7.1 claims per 100 employees in GSA in 1983, compared to 5.9 per 100 in the Government-at-large for that year.

We found that GSA had in place the basic elements of an effective program. More importantly, the head of the agency and the designated agency safety and health official had evinced a strong commitment to the program. In some of GSA's regional offices and workplaces, however, OSHA noted differences in the implementation of the agency's program. OSHA made a number of specific recommendations to GSA, including the suggestion that measurable safety and health performance standards be made critical elements in judging the performance of managers and supervisors of hazardous operations.

In all, OSHA's evaluation included 12 recommendations for improvements in the GSA program. In each instance, GSA responded with a statement of actions taken to implement the recommendations.

EVALUATION OF THE VA'S OSH PROGRAM

On September 18, 1984, OSHA began a followup evaluation of the safety and health program of the Veterans' Administration. We had completed the initial evaluation the year before. Data from the FECA program indicated that the VA had reversed what had been a rising trend of injury and illness compensation claims. The agency rate dropped from 9.5 claims per 100 employees in 1981 to 7.7 claims per 100 employees in 1983.

OSHA found that the principal improvement in the VA's safety and health program was the increased support of top management. As OSHA had recommended in its 1983 evaluation report, the VA had instituted the personnel practices needed to ensure greater managerial accountability for safety and health responsibilities.

We made several recommendations for further improvement. These included the suggestion that the VA issue a policy statement to all managers and employees urging all personnel to report haz-

ards and follow safe work practices, and that it strengthen its industrial hygiene capability.

FACOSH

OSHA has given considerable attention in recent years to the Federal Advisory Council on Occupational Safety and Health, FACOSH. FACOSH is composed of representatives of agency heads at the assistant secretary level, as well as representatives of Federal employee unions. It serves as the top policy advisory body to the Secretary of Labor on matters of Federal sector safety and health.

A new committee of FACOSH, the Standing Committee on Federal Occupational Safety and Health, has become the key working body for the Advisory Council. The committee also serves as a forum for discussion of safety and health problems in the Federal sector.

OSHA has a special relationship with GSA which has particular responsibility for health and safety in Federal buildings. Executive Order 12196 specifies that GSA is to assist Federal agencies upon request by accompanying OSHA inspectors, or the inspectors of the agencies concerned, on inspections of facilities subject to GSA authority. GSA is also required to assure prompt attention to other agencies' reports of unsafe or unhealthful conditions in facilities subject to GSA authority.

GSA and OSHA concluded a memorandum of understanding in March 1982. The two agencies agreed in the memorandum on the need for uniform standards in acquiring leased space and declared that OSHA standards will be used by GSA in securing space. GSA is also to assume responsibility for determining whether OSHA standards are met in State and local government building requirements. OSHA is to provide advice and technical assistance to GSA in making this determination.

Another memorandum of understanding was signed by the two agencies in November 1983. This memorandum helps to further delineate the responsibilities of the two agencies in handling unsafe and unhealthful working conditions in the space furnished by GSA and provides that GSA will make available to tenant agencies a list of professional consultants.

FEDERAL EMPLOYEE COMPENSATION COSTS

Another agency in the Department of Labor, the Employment Standards Administration, administers the Federal Employees' Compensation Act, which provides worker compensation for Federal employees. At the Secretary of Labor's direction, the two agencies, ESA and OSHA, have each worked with many Federal agencies since 1981—OSHA, as I have described to you this morning, to reduce or prevent injuries and illnesses, and ESA to contain or lower costs for compensation and to improve the care given to injured Federal employees to speed their return to work.

The results have been encouraging. There has been a significant reduction in the rate of growth of Federal employee compensation costs. From 1979 to 1982, these costs had increased by an average of 11 percent each year. In fiscal year 1983, however, Federal employee compensation costs increased only 4 percent, and in 1984 by

only 3 percent. The difference between these growth rates and the former rates represents a savings to the taxpayer of more than $100 million.

AWARDS AND GOALS

There has been considerable progress toward meeting the President's 5-year Governmentwide goal of a 3-percent annual reduction in workplace injuries and illnesses. The Presidential goal has, in itself, given the Federal sector program a signal that it has top management commitment needed for a successful effort. The record to date indicates that the Federal Government is on its way toward meeting that goal. It is worth noting that the agencies upon which OSHA has concentrated inspections and evaluations have generally been among the most successful in reaching the President's goal. The base year from which the 5-year goal for fiscal years 1984 through 1985 is being measured is 1982. Since then, there has been about a 7-percent drop in notices of injuries filed under the Federal Employees Compensation Act.

The annual Presidential Awards for Safety and Health Management, which had been discontinued in 1974 and re-established by President Reagan in 1983, provide further incentive to improve safety and health in the Federal workplace. The awards were given this January for outstanding achievement in reducing Federal employee injuries-illnesses and compensation costs.

OSHA's intent is to establish a safety and health program in the Federal sector which can serve as a model for private sector efforts. We are aware that there are hazardous conditions in Federal workplaces that need attention. We are confident that Federal managers, supervisors and employees, will continue to make progress in eliminating hazards in the Nation's Federal workplaces, and OSHA will continue to assist in that effort.

Thank you. This completes my prepared statement, and I would be glad to answer any questions.

[Prepared statement of John B. Miles, Jr., follows:]

PREPARED STATEMENT OF JOHN B. MILES, JR., DIRECTOR OF FIELD OPERATIONS, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Mr. Chairman and Members of the Subcommittee, Thank you for the opportunity to discuss the role of the Occupational Safety and Health Administration (OSHA) in workplace safety and health in other Federal agencies. In its oversight of OSHA over the past decade, this Subcommittee has devoted a significant number of hearings to the safety and health of Federal employees. The Administration in recent years has also stressed the importance of Federal agency safety and health programs. A number of new initiatives have been taken in this area since the last time OSHA's Federal Agency Programs were described to the Subcommittee. Since 1982, when the President called for the commitment of all Federal department and agency heads to the improvement of occupational safety and health for Federal workers, OSHA has placed considerable emphasis on helping the nation's largest single employer—the Federal Government—reduce workplace illnesses and injuries.

Mr. Chairman, as you know, section 19 of the Occupational Safety and Health Act of 1970 assigns responsibility for occupational safety and health to the heads of Federal agencies, with OSHA given the responsibility to evaluate and make recommendations derived from annual reports submitted by the heads of Federal agencies. Various Executive Orders, beginning with an Order issued in 1971, have defined OSHA's role and the agencies' safety and health duties in the Federal sector. Currently in effect is Executive Order 12196 of February 26, 1980. Regulations implementing this order were issued by OSHA in October 1980 as "Basic Program Ele-

ments for Federal Employee Occupational Safety and Health Programs" (at 29 CFR Part 1960).

The Order and implementing regulations require that each Federal agency head must operate an occupational safety and health program in accordance with the principles and basic program elements set forth therein. Each agency must comply with all OSHA standards except when OSHA approves compliance with alternative standards. Furthermore, Federal agencies must conduct inspections of their workplaces at least annually. They must also respond to employee reports of imminent dangers within twenty-four hours and reports of allegedly serious hazards in three working days.

Under the Order, OSHA is authorized to assist Federal agencies and conduct unannounced inspections in most Federal workplaces. OSHA is also required to evaluate agencies' safety and health programs and to submit a report thereon to the head of the agency and to the President. If an agency establishes occupational safety and health committees that meet OSHA requirements in 29 CFR Part 1960, OSHA does not have authority to conduct unannounced inspections.

THE PRESIDENT'S 5-YEAR GOAL

The commitment and involvement of top management is critical to the success of any workplace safety and health program—in the Federal sector as in the private. In December 1982, the President publicly expressed concern about the rising number of injuries and illnesses suffered on the job by Federal employees and the accompanying costs in human suffering, loss of services, and increased compensation payments. At that time he announced a resumption of a system of annual Presidential awards to the agencies showing the greatest commitment and results in improving safety and health conditions. In a memorandum to the heads of all Executive departments and agencies, he declared that the Federal Government must set an example in occupational safety and health and directed them to review existing safety and health programs and, with OSHA's help and advice, take every step possible to reduce injuries and illnesses.

In a directive issued in October 1983 to all department and agency heads, the President set a government-wide goal of a three-percent annual reduction in workplace injuries and illnesses for fiscal years 1984 through 1988. The record to date indicates that the Federal Government is on its way toward meeting that goal. It is worth noting that the agencies upon which OSHA has concentrated inspections and evaluations have generally been among the most successful in reaching the President's goal.

TARGETING OSHA'S FEDERAL SECTOR EFFORT

Claims data collected under the Federal Employees' Compensation Act (FECA), indicate that fifteen of the largest Federal agencies are responsible for 98 percent of Federal employees' compensation claims and 97 percent of the resulting compensation costs. As in the private sector, it is essential that OSHA direct its resources to the Federal workplaces where the need for attention is greatest. OSHA consequently now focuses its assistance, evaluation, and inspection resources upon these agencies. Moreover, data in the reports required under the FECA program are used not only to help select agencies for OSHA evaluation and to target high-hazard workplaces for inspections or technical assistance, but also to measure the progress of Federal agencies toward the President's injury-illness reduction goal and assist in determining which agencies will receive safety and health awards.

OSHA INSPECTIONS IN FEDERAL AGENCIES

As stated, Executive Order 12196 provides OSHA with the authority to make unannounced inspections in most Federal workplaces. Until 1983, OSHA's enforcement resources were primarily directed to private sector workplaces. Almost all complaints from Federal employees were referred to the agencies for action; for the most part, OSHA only inspected a Federal workplace when an agency failed to resolve an employee's complaint. In 1980 and 1981, OSHA made about 200 inspections in Federal agencies.

In 1983 OSHA issued new instructions to its field personnel which outlined procedures for three types of Federal agency inspections: unannounced inspections in response to formal employee reports of serious safety or health hazards, fatality and catastrophe investigations, and inspections and assistance visits targeted to high hazard workplaces. OSHA compliance personnel also were instructed to respond to requests for technical assistance form Federal agency managers.

The new instructions include provisions for documenting violations of OSHA standards. To encourage workplaces to correct hazards quickly, OSHA sends the head of the workplace an informal "Hazard Correction List" describing the violations found on the inspection. A formal OSHA citation is issued only of violations on the Hazard Correction List are not eliminated within thirty days. At that time, notice of any uncorrected violations are also sent to the Designated Agency Safety and Health Official, who generally is the official at agency headquarters who represents the agency head in safety and health matters.

In FY 1982, OSHA conducted 308 visits in Federal workplaces. (This figure includes responses to employee complaints, inspections conducted in the course of agency evaluations, and technical assistance visits.) In FY 1983, the total number of OSHA visits to Federal worksites was 331; in FY 1984, 1300; and in the first seven months of FY 1985, 1022. Beginning in FY 1984, OSHA began to target inspections to high hazard Federal workplaces, instead of visiting workplaces only in response to employee complaints or agency requests for technical assistance. To date, OSHA has conducted 430 targeted visits in high hazard Federal workplaces.

TRAINING/CONSULTATION/ABATEMENT-ASSISTANCE

OSHA has considerable safety and health expertise to offer to agencies that may lack the resources and technical knowledge to address workplace safety and health problems—a situation analogous to that facing small business in the private sector. In the past three years OSHA has made an aggressive effort to share its knowledge with other Federal agencies. In January 1983 the secretary of Labor sent a letter to all Executive department and agency heads offering OSHA's assistance in implementing the President's injury-illness goals. This was immediately followed by a second letter to all Designated Agency Safety and Health Officials notifying them that OSHA would be identifying high-hazard workplaces and offering services such as training, hazard identification, and abatement advice. OSHA now responds regularly to other agencies' requests for technical assistance. In FY '84, 586 technical assistance visits were made to other agencies; 637 such visits were completed in the first seven months of FY'85.

OSHA sends a newsletter regularly to all Federal agencies informing them of new OSHA policies and programs and also distributes to the other agencies copies of any Federal Register notices or items concerning workplace safety and health. These include regulations and policies issued by OSHA as well as by other departments and agencies.

More than two-fifths of the enrollees in OSHA's Training Institute in Des Plaines, Illinois, now come from other Federal agencies. In 1984, the Institute trained 2,750 Federal agency employees in a wide variety of safety and health matters. Thus far in FY 1985, 1834 employees of other agencies have received training at the OSHA Institute. In addition to the normal courses of instruction open to all enrollees, including Federal employees, there are two courses designed specifically for Federal employees and supervisors. Each of these courses is given four times a year so that there is ample opportunity to attend. OSHA has also sent training packages to its Regional and Area Offices. These packages contain instruction material for Federal employees who cannot attend the Training Institute. OSHA field personnel have been directed to use this material upon the request of other Federal agencies for the instruction of their employees.

EVALUATION OF FEDERAL AGENCY SAFETY AND HEALTH PROGRAMS

OSHA not only inspects specific Federal workplaces, but also evaluates the complete safety and health programs of Federal agencies. In these evaluations, OSHA examines the support provided by top management to the agency's job safety and health program, the way in which the agency uses injury and illness data to target resources, the actual implementation of the program in the workplace, and the agency's self evaluation efforts. In its evaluation, OSHA makes recommendations to the agency head with a view to improving working conditions throughout the agency, and not merely in certain agency workplaces.

Evaluations of Federal agency safety and health programs are directed to the larger, more hazardous Federal agencies. Since 1982, OSHA has completed evaluations of the occupational safety and health programs of eight large agencies and has provided suggestions for improvement to the top management of these agencies. In FY 1983, OSHA completed evaluations of the programs of the Veterans Administration (VA) and the Treasury Department. In FY 1984, OSHA completed evaluations of the programs of the Agriculture and Interior Departments and follow-up evaluations of the programs of the Tennessee Valley Authority, the Postal Service, and the

Navy Department. In FY 1985, OSHA has completed an evaluation of the safety and health program of the General Services Administration (GSA) as well as a follow-up evaluation of the Veterans Administration's program, and is in the process of evaluating the programs of the Panama Canal Commission, the Department of the Treasury and the Department of the Army. This year OSHA also plans to evaluate the programs of the Postal Service and the Departments of Justice and Health and human Services.

I will outline for you the results of OSHA's most recent evaluations of the safety and health programs of the General Services Administration and the Veterans Administration to give an idea of the strengths and weaknesses of Federal agency safety and health programs in which the Subcommittee has expressed an interest.

EVALUATION OF THE GSA OSH PROGRAM

The General Services Administration (GSA) was selected for evaluation because it is a large agency with hazardous occupations and has had an injury-illness claims rate higher than the overall Government rate (7.1 claims per 100 employees in GSA in 1983, compared to 5.9 per 100 in the Government at large for that year). The evaluation began with an opening conference on February 29, 1984. During the next two months OSHA evaluations visited GSA's central office and fifteen field sites. The evaluation ended with a closing conference on July 13, 1984.

OSHA drew several general conclusions concerning GSA's safety and health program for its employees. We found that GSA had in place the basic elements of an effective program. Not only did GSA's written program include almost all of OSHA's "Basic Program Elements for Federal Employee Occupational Safety and Health Programs," but in some areas it exceeded these minimum requirements. Most importantly, the head of the agency and the Designated Agency Safety and Health Official had evinced a strong commitment to the program. In various of GSA's regional offices and workplaces, OSHA noted differences in the implementation of the agency's program that needed attention to ensure that minimum safety and health program requirements were met in all workplaces.

OSHA made a number of specific recommendations to GSA, including the suggestion that measurable safety and health performance standards be made critical elements in judging the performance of managers and supervisors of hazardous operations. OSHA also recommended that GSA use injury-illness statistics to establish goals and objectives, that the agency encourage employees to report hazards to their supervisors, and that it inspect all workplaces at least once each year. In all, OSHA's evaluation included twelve recommendations for improvements in the GSA program. In each instance GSA responded with a statement of the actions taken to implement the recommendations.

EVALUATION OF VA'S OSH PROGRAM

On September 18, 1984, OSHA began a follow-up evaluation of the safety and health program of the Veteran's Administration (VA), the initial evaluation having been completed the year before. During the evaluation, which lasted two months, OSHA visited the VA's central office as well as four VA worksites around the country. The evaluation was concluded on February 25, 1985.

Data from the Federal Employee Compensation Act program indicated that the VA had reversed what had been a rising trend of injury/illness compensation claims. The agency's rate dropped from 9.5 claims per 100 employees in 1981 to 7.7 claims per 100 employees in 1983.

OSHA found that the principal improvement in the VA's safety and health program was the increased support of top management. As OSHA had recommended in its 1983 evaluation report, the VA had instituted the personnel practices needed to ensure greater managerial accountability for safety and health responsibilities. The VA had also elevated its Designated Agency Safety and Health Official to the level of Deputy Chief Medical Director and had created positions for an occupational safety and health staff to assist this official.

OSHA made several recommendations for further improvement. These included the suggestion that VA issue a policy statement to all managers and employees urging all personnel to report hazards and follow safe work practices. Among its other recommendations, OSHA proposed that the VA strengthen its industrial hygiene capability, use injury/illness data to set priorities and measure goals, and conduct an annual evaluation of its occupational safety and health program to determine progress in complying with OSHA's regulations and in reducing workplace injuries.

FACOSH

In order to obtain the widest possible spectrum of information and expertise on Federal agency safety and health, OSHA has given attention and status to the Federal Advisory Council on Occupational Safety and Health (FACOSH) and its various commitees. FACOSH is composed of representatives of agency heads at the Assistant-Secretary level as well as representatives of federal employee unions. It serves as the top policy advisory body to the Secretary of Labor on matters of Federal sector safety and health.

A new committee of FACOSH, the Standing Committee on Federal Occupational Safety and Health, has become the key working body for the Advisory Council. The membership of this new committee is drawn from agency and union oficials whose daily concern is management of the Federal sector's safety and health programs. The Standing Committee coordinates the activities of other subcommittees and channels information to the agencies' policy-level representatives on FACOSH. The Committee also serves as a forum for discussion of safety and health problems in the Federal sector.

OSHA AND GSA

OSHA has a special relationship with the Federal agency which has particular responsibility for health and safety conditions in Federal buildings. The role of the General Services Administration (GSA) in Federal workplace safety and health is specified in Executive Order 12196. Upon request, GSA is to assist Federal agencies in carrying out their duties by accompanying OSHA inspectors, or the inspectors of the agencies concerned, on inspections of facilities subject to GSA authority. GSA is also required to assure prompt attention to other agencies' reports of unsafe or unhealthful conditions in facilities subject to GSA authority. When GSA cannot promptly abate hazards that have been called to its attention, it is to submit a timetable for correcting conditions to the head of the agency in question. According to the Executive Order, hazard abatement is to receive priority in GSA's resource allocation. Finally, GSA is required to provide safe supplies, devices, and equipment as well as maintain a product safety program for the supplies and equipment furnished to the agencies.

To reaffirm the respective roles of GSA and OSHA, the two agencies concluded a Memorandum of Understanding in March 1982. The Memorandum emphasizes that GSA, as the agency responsible for providing government-owned or leased space, is obligated to provide to agencies space that does not contain serious hazards or serious violations of OSHA standards. GSA and OSHA agreed in the Memorandum on the need for uniform standards in acquiring leased space and declared that OSHA standards will be used by GSA in securing such space. The Memorandum also provides that, to the extent that GSA deems necessary, GSA is to assume responsibility for determining whether OSHA standards are met in State and local building requirements. OSHA is to provide advice and technical assistance to GSA in making this determination. Where buildings that fall short of complying with OSHA standards are already occupied or are the only space available, GSA is to take every possible step to abate any hazards.

Another Memorandum of Understanding was signed by the two agencies on November 4, 1983. This memorandum helps to delineate the responsibility of the two agencies in handling unsafe and unhealthful working conditions in space furnished by GSA. The Memorandum provides that GSA will make available to tenant agencies a list of professional organizations and individuals that can conduct workplace and industrial hygiene surveys to determine the validity of any safety and health concerns. OSHA agrees under the Memorandum to assist tenant agencies in eliminating unsafe or unhealthful conditions (other than imminent danger situations) by supplying the agencies with GSA's list of professional consultants. OSHA will request a report from the agency on the resultant findings, forward a copy of these findings to GSA, and monitor the abatement of the hazardous condition. In the event of a report of a serious hazard or an imminent danger situation, OSHA will inspect or otherwise act to assure that the condition is addressed in an expeditious manner.

FEDERAL EMPLOYEE COMPENSATION COSTS

It needs to be pointed out that there is another agency in the Department of Labor, the Employment Standards Administration (ESA) which is also concerned with Federal employees in the workplace. Among ESA's responsibilities is the administration of the Federal Employees' Compensation Act, which provides workers'

compensation for all Federal employees. At the Secretary of Labor's direction, the two agencies, ESA and OSHA have each worked with many Federal agencies since 1981—OSHA, as I have described to you this morning, to reduce or prevent injuries and illnesses and ESA, to contain or lower costs for compensation and to improve the care given to injured Federal employees to speed their return to work.

The results have been encouraging. There has been a significant reduction in the rate of growth of Federal employee compensation costs. From 1979 to 1982, these costs had increased by an average of 11 percent each year. In FY 1983, however, Federal employee compensation costs increased by only 4 percent, and in FY 1984, by only 3 percent. The difference between these growth rates and the former rates represents a savings to the taxpayer of more than $100 million.

AWARDS AND GOALS

The President's five-year government-wide goal of a three-percent annual reduction in workplace injuries and illnesses has given the Federal sector program the top management commitment needed for a successful effort. There has been considerable progress toward meeting that goal. In 1982, the base year from which the President's five-year goal is being measured (for fiscal years 1984 through 1988), there were 177,489 notices of injury filed under the Federal Employees Compensation Act (FECA). In 1984 there were 168,325 such notices—a reduction of 5.2 percent. In the first eight months of FY 1985 there were 109,641 FECA notices reported—a 7.3 percent drop from the first eight months of 1982.

The annual Presidential Awards for Safety and Health Management, which had been discontinued in 1974 and were reestablished by President Reagan in 1983, provide further impetus to improve safety and health in the Federal workplace. Initiated by President Eisenhower in 1955, the awards program was designed to recognize exceptional achievement in protecting Federal employees on the job. The awards were given this January for outstanding achievement in reducing Federal employee injuries illnesses and compensation costs. Winners of first place awards for three competitive categories included the Department of Agriculture and the United States Postal Service (tied in their category), the Smithsonian Institution and the National Science Foundation. Honorable mention awards went to the U.S. Air Force, the National Aeronautics and Space Administration, and the Environmental Protection Agency.

OSHA's intent is to establish a safety and health program in the Federal sector which can serve as a model for private sector efforts. We are aware that there are hazardous conditions in Federal workplaces that need attention. With OSHA's assistance, Federal managers, supervisors and employees will continue to make progress in eliminating hazards in the workplaces of the nation's 2.8 million civilian, Federal employees.

Mr. GAYDOS. Thank you very much, Director.

Let the record show that Mr. Hayes is present.

Let me ask you, does every Federal agency at this point in time have an operational health and safety program?

Mr. MILES. I think they do. They are required to have one, so I think they do. The larger ones I know do, and most of the smaller ones either have to have a safety and health committee or to have a safety and health program.

Mr. GAYDOS. Who checks on that? If there was some question raised, where would this committee go, or anybody else go, to check and see if that is a fact?

Mr. MILES. We evaluate all those programs. All 200 agencies have to report their safety and health progress to us each year. They provide us with a report at the end of the year.

Mr. GAYDOS. Do you have records of that?

Mr. MILES. Yes, we do. We have those records.

Mr. GAYDOS. As I interpret your remarks generally, you are saying these programs are effective and have been proven effective in reducing or eliminating the risk of injury or death, right? That's about generally what you're saying?

Mr. MILES. Yes. I think in the last few years they have done a good job in reducing the injuries and illnesses in the Federal workplace.

Mr. GAYDOS. Which of the two or three agency programs would you classify as the most outstanding? I think you mentioned the GSA and the VA. What are your most outstanding ones so we can zero in on them. That's the reason I'm asking the question.

Mr. MILES. Well, when you say outstanding, certain ones have done a very good job in the past few years of getting the rates down. The post office, which still has a relatively high rate, has done a good job in getting it down. But the workplace hazards, the dog bites and so forth, are real hazards there.

Mr. GAYDOS. Let's stop right there then. That's one exception to the general concept, that since you have instituted this type of program the injury rate has gone down. But has the post office remained static or gone up?

Mr. MILES. It has gone down in the Postal Service. It has gone down considerably. They have——

Mr. GAYDOS. The same percentage as the other ones, or would you know?

Mr. MILES. I think they have had a significant decrease. If you look from about 1980 to date, they have had a real decrease in the number of injuries and illnesses in the Postal Service.

Mr. GAYDOS. And again, Director, you would say that would be attributable to your programming and your oversight?

Mr. MILES. I think that, plus that the management of the post office became very concerned with safety and health in 1979 and has instituted top management's interest in it and has made a goal to get injuries and illnesses down.

Mr. GAYDOS. How are you getting along with the labor leaders and unions, the collective bargaining agencies of various types on this problem? Is there cooperation?

Mr. MILES. I think there has been good cooperation. Since we have instituted the new complaint procedure, where we respond to employee complaints instead of referring them back to the agency, we have had very good response from the employee unions. Plus several of them serve on our FACOSH group. The Postal Workers Union is a member of our FACOSH group.

Mr. GAYDOS. They have representatives on that?

Mr. MILES. Yes, they do.

Mr. GAYDOS. OK. We looked at the stronger ones. How about the weaker ones? What agencies would you say aren't responding too thoroughly or don't have too good a program in effect?

Mr. MILES. Well, I think, by and large, after the President's memorandum to agencies to take an interest in safety and health, and by the President himself looking at that semiannually, all agencies have a real interest in it now.

Some have higher rates due to the nature of their work. The Postal Service, the VA, Department of the Interior and the General Services Administration have higher rates, but in those agencies they are working very hard to get those rates down and reduce them.

One agency that is probably the best example of a good program is the TVA. They had very high rates. They had construction activ-

ity in their plants. They have reduced their rates significantly over the last couple of years.

Mr. GAYDOS. Is there a lot of interchange between these agencies and your assigned personnel? You know, is it on a regular basis? Is there a free flow of information from your people over to these agencies and vice versa?

Mr. MILES. I think it works very well. We meet all the time with other Federal agencies. We are providing assistance to them in safety and health inspections. Really, it is a very good working relationship. We have had very few problems and it seems that somebody from the other agencies is over talking to us all the time.

Mr. GAYDOS. In other words, if I may redescribe what you're saying, you say it's a viable program, it's not a sham, and the statistics indicate that it has been quite effective; that's a pretty fair assessment and summation of what you're saying?

Mr. MILES. Yes, sir. I think we have taken much more interest in the last few years. As you can see, we have increased our inspections from 200 up to almost 1,600, and probably this year will do 2,000. So we have an interest in it and I think it's working.

Mr. GAYDOS. Fine. Now let me ask you the $50,000 question: With all the limitations on budgets and things of that nature—and I know you have your problems, and we have them, too—how many people have you reassigned or have been separated—and if they are separated, you can explain that to me—how big is this department that is doing such a wonderful job? How many people are assigned to it?

Mr. MILES. Are you talking about staff nationwide that works on Federal agencies?

Mr. GAYDOS. Yes. How do you have this set up?

Mr. MILES. We have put it right in beside our private sector program, where we make inspections out of an area office. Nationally, here we have probably 25 to 30 who work in the Federal agency programs. In each region we have one person assigned that responsibility. And then we use our compliance office and area directors to do these inspections.

Mr. GAYDOS. Let me see if I can re-create what you have said again, because I have to understand this. You're saying in all the regions you have at least one person specifically designated and assigned to take care of this?

Mr. MILES. Yes.

Mr. GAYDOS. Like a head man, right?

Mr. MILES. That's right, a program coordinator.

Mr. GAYDOS. You said back at the main headquarters you had how many, 25?

Mr. MILES. I would say 20 to 25, somewhere in that range, yes.

Mr. GAYDOS. What do they consist of? Who are they?

Mr. MILES. They are safety and health experts. They——

Mr. GAYDOS. Is that all they do?

Mr. MILES. No. They have several programs. One is the consultation and training program. They coordinate that with the other Federal agencies. We have the field councils where the Federal agencies have 88 field councils around the country. These people coordinate those meetings. They determine who gets the awards. They review the FECA data for the others. They develop the tar-

geting programs for the Federal agencies. They are responsible for the national program oversight on Federal agencies.

Mr. GAYDOS. I wasn't listening to your answer. I'm sorry.

Mr. MILES. They do training and consultation. They coordinate the Federal field council programs. We have these around the country where all Federal agencies meet. Then we have evaluations. We do the evaluations with this group of the other Federal agencies' safety and health programs. We do eight a year in that area.

We develop a targeting list of where to do inspections in other Federal agencies. In other words, we do the list here and send it out to our area offices where they make the actual inspections. But we develop the list here. They coordinate with FECA to look at the injury and illness rates each year of the Federal agencies. Then we provide reports, as necessary, on the safety and health——

Mr. GAYDOS. You see, Director, I have a sneaking suspicion in my inquisitive mind, and maybe unjustly so, that all the agency did—and again, it might be caused because of budget deficiencies—all the agency did was respond to this committee's inquiry over the last 3 or 4 years on this subject matter, stating that you had a deficiency, and all you did was just make a couple of inspections and set together some organizational staff changes and we're right back in the same thing we're doing before. That's my suspicion.

Now, I am looking for some facts to belay that suspicion, and hopefully divert it, and prove that I'm not right.

Mr. MILES. I think in this case that your suspicions probably aren't right. We had one of our annual planning sessions in Ocean City, MD, in 1982 where the session was devoted to Federal agency programs and how we could improve the program, what we could do. That's when we came out with the goal of making more inspections in the Federal workplace. We would do complaint inspections—instead of referring them back to the agency. We would do fatality inspections in the Federal workplace. We would target the ones with the highest rates using FECA data.

So I think we did change the program around. Of course, the Executive order, when it came out in 1980, gave some guidance—29 CFR 1960 provided some guidance—and at the 1982 planning conference we went about deciding how to implement these particular procedures.

Mr. GAYDOS. Let's take the theoretical inspector. There he was doing a certain job and he was assigned out of a regional office, making so many inspections. All at once this new program comes in. He is sent down to the VA office or the GSA to check some of those office buildings.

Now, what happens to him? Does that remove an inspection from the civilian end of it? You see, you haven't put more personnel on. You haven't shown me that you have put more personnel on. In fact, I don't think you can, budgetwise. If you're squeezing more work out of your inspectors and your directors and subdirectors, then fine, but I don't know how you're doing this whole new massive effective program without additional help. I don't know how you're doing it. We ought to send you to all the other agencies because they need that type of expertise so desperately.

Mr. MILES. We do look at the efficiency of our compliance officer. We have improved our inspections per compliance officer from about 45 per officer in 1979 up to near 70 now, so that's one way we have been able to make more inspections. These 2,000 inspections in the Federal sector are done by compliance officers out of OSHA's area offices. They either do a private-sector inspection or a Federal one, and you do trade those off.

But we have improved compliance officers' efficiency and we have done it in a couple of ways. One, we got the contest rate down from 22 percent to 2 percent now, which is the equivalent of 30 man-years saved nationwide, and we have changed our followup procedure where we picked up the equivalent of about 70 additional compliance officers by doing that. So we have done some things to improve the efficiency of the program.

Mr. GAYDOS. OK. Thirty man-years is not very effective as far as I'm concerned. It loses me. You know, all you bureaucrats always go into the man-hours or man-years and things like that. Sometimes I wonder if it's not done designedly to confuse some of our committee thinking. But I'm sure that's not the purpose.

FECA used to be the responsibility of this committee; I want you to know that. We had some very extensive hearings on how that Federal Employees' Compensation Act was working and just how readily the applications were being processed and things like that. Now, I notice here that you make reference to some injuries and change of injury statistics.

For my own personal information, are your findings comprehensive and do they include all of the on-the-job injuries and illnesses, the ones you referred to in your prepared statement?

Mr. MILES. Yes; We use the FECA data and all the claims that are filed with FECA.

Mr. GAYDOS. You got that from FECA?

Mr. MILES. Yes; we got that from FECA. We use the FECA data for our targeting.

Mr. GAYDOS. Are claims filed on all injuries?

Mr. MILES. I would say, by and large, most employees do file claims for their injuries and come into the system. My experience has been they file claims.

Mr. GAYDOS. That's your understanding of it?

Mr. MILES. Yes.

Mr. GAYDOS. Well, we have found just the opposite in the hearings we have had. Of course, that might have changed.

Let me ask you, how do these injury statistics compare with injury and illness reports from the private sector?

Mr. MILES. The Federal Government has a lower incidence rate than the private sector.

Mr. GAYDOS. It does?

Mr. MILES. Yes.

Mr. GAYDOS. It always has had?

Mr. MILES. Yes, I think so. It's the nature of the work. When you look at all industries, it is probably less hazardous, the office work type. But some agencies have high hazard workplaces.

Mr. GAYDOS. Let me stop here and let my good friend, Mr. Hayes, ask a couple of questions, and then I'll come back to you.

Mr. HAYES. Just a couple of questions, because we do have to go vote, I see.

How many field offices do you have?

Mr. MILES. We have 72 area offices and 10 district offices, which are sub-type offices. We have 82 offices nationwide which enforcement comes out of, plus 10 regional offices which supervise our regions.

Mr. HAYES. And all are staffed?

Mr. MILES. Yes, they're staffed, yes, sir.

Mr. HAYES. Do you feel threatened by budget constraints? Have you run into that pressure now?

Mr. MILES. We have reduced our budget and streamlined our operations, but we have tried to keep our compliance officer staff constant in doing that. We have reduced our overhead primarily to do that. I think we have found ways of having a more efficient operation and I don't feel threatened.

Mr. HAYES. No further questions, Mr. Chairman.

Mr. GAYDOS. I'll ask one very hurriedly because we have to go vote, and then we'll be back for the next witness.

There is considerable concern that Federal employees might be excluded from the protections offered by the hazard communication standard. What plans does OSHA have to ensure that Federal workers receive the same protection from hazardous and toxic substances as workers in the private sector, especially in light of the third circuit court ruling? Could you respond to that, Mr. Director?

Mr. MILES. I think in light of that decision, one of the areas to be looked at—that was remanded to us—was the scope. In looking at the scope, I think Federal workers will be considered along with all the other workers outside the present scope.

Mr. GAYDOS. How about OSHA standards generally?

Mr. MILES. Yes, they apply to Federal agencies.

Mr. GAYDOS. All right. I have no further questions. I want to thank you for your appearance. We will be sending you some interrogatories, if you would respond to them. Thank you for your time and your forthright response to the questions. I still have some concern for your operation there and would like to get you some more money for your budget anyhow.

Mr. MILES. Thank you, Mr. Chairman.

Mr. GAYDOS. We will be back in 5 minutes.

[Whereupon, the subcommittee was in recess.]

Mr. GAYDOS. The committee will be in order. On behalf of the committee, I would like to welcome Mr. Michael Urquhart, president, local 12, U.S. Department of Labor, American Federation of Government Employees. Welcome to the committee, Mr. Urquhart. Without objection, your prepared and submitted statement will be included in the record and you may proceed.

STATEMENT OF MICHAEL URQUHART, PRESIDENT, LOCAL 12, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY DAVID SCHLEIN, HEAD STEWARD, LOCAL 12

Mr. URQUHART. Thank you, Mr. Chairman. I am accompanied today by David Schlein, who is the head steward for local 12.

Mr. Chairman and members of the subcommittee, I thank you for the opportunity to discuss with you the important issue of how we can improve safety and health in the Nation's largest place of employment, the Federal Government. My name is Michael Urquhart and I am president of local 12, AFGE, the local that represents 5,000 Labor Department employees in the Washington metropolitan area. Our national president, Ken Blaylock, has asked me to appear today on his behalf, on behalf of AFGE, because he is unable to be here himself. However, Mr. Blaylock has sent the committee a letter which raises a number of important issues which I hope you will make a part of the record of this proceeding.

Mr. GAYDOS. If you would yield, the letter, as submitted by Mr. Blaylock, will be made a part of the record, without objection. So ordered.

Mr. URQUHART. Thank you.

To begin with, all of us in the AFGE support President Reagan's goal of reducing government-wide workplace injuries and illnesses by 3 percent per year over a 5-year period. We have no problem with the goals of this program, nor its targeting the 14 agencies, including the Postal Service, which account for most of the workplace injuries.

We have serious disagreements with the strategy which the administration and OSHA's Federal agency program have selected to achieve this goal. The Federal agency program, in our view, has abandoned the goal of reducing worker injuries and illnesses and instead is pursuing the goal of reducing workers' compensation costs as measured by the Federal Employee Compensation Act claims data.

We believe that if the Federal agency program were carried out effectively, if it had sufficient resources, leadership and commitment, their goals would be stated and performance measured in terms of reducing workplace injuries and illnesses. By reducing or eliminating the risks and hazards that cause work-related diseases and injuries, the program would automatically produce decreases in workers' compensation claims and costs.

However, to reduce or eliminate workplace risks takes commitment, resources, and leadership, three things that we find sorely lacking in OSHA's Federal agency program today. To reduce workplace injuries and diseases, it takes trained industrial hygienists, safety inspectors, and substantial increases in the number of spot checks of safety and health conditions among Federal agencies.

When the Congress enacted the Occupational Safety and Health Act of 1970, it carefully wrote into the law the definition of what constituted a reportable work injury illness. Section 24(a) of Public Law 91-596 states—and I quote:

> The Secretary shall compile accurate statistics on work injuries and illnesses, which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

This definition was much broader than the definition for reportable injuries or illnesses covered by most State workers' compensation statutes. It also goes well beyond the current definition of a reportable injury/illness of the Federal Employee Compensation

Act. Congress thus recognized that existing workers compensation claims information represented an inadequate data base upon which to build a national program of occupational injury and disease prevention.

As a result, the national OSHA/BLS work injury/disease reporting system was developed. This system requires employers to maintain detailed logs of work injuries and illnesses according to the definition in the law. An annual survey collects a statistically valid sample of the data in order to develop year-to-year injury and illness statistics for the Nation.

While it is true BLS also collects supplemental data on work injuries and diseases from participating State workers' compensation agencies, the OSHA national safety and health goals, targeting systems, and priorities for private-sector enforcement are drawn from the data employers are required to keep on the OSHA logs for injuries and illnesses.

We believe it is improper and inadequate to articulate the Federal agency program's goals in terms of workers compensation claims or costs for the following reasons:

One, Congress gave OSHA a definition of what constituted a work injury or illness along with the authority to collect national statistics on injuries and illnesses.

Two, this reflected a congressional decision that workers compensation data were inadequate for injury/illness prevention purposes.

Three, by focusing on workers compensation rather than risk reduction and injury illness prevention, the administration creates a climate within which short-term pressures can be applied to agencies, supervisors and employees—as well as FECA officials—to reduce workers compensation claims and costs at the expense of Federal employees.

Four, workers compensation data, for the most part, do not reflect the incidence and prevalence of occupational or environmental diseases. Typically, in a workers compensation program, only 1 to 2 percent of the cases filed are for occupational diseases. Most of these cases involve easy to diagnose conditions such as contact dermatitis or repetitive motion injuries that are classified as occupational diseases because they occur over time rather than suddenly.

There are a number of reasons for the relatively few occupational disease workers compensation cases that are filed, including: Difficulties in diagnosing occupational diseases; a long latency period that occurred between exposure and illness; multiple causation of diseases including environmental exposure, occupational exposure, lifestyle and genetics; lack of eduction among U.S. physicians with respect to the occupational and environmental etiology of disease; and the basic injury orientation of workers compensation programs has not been adopted to deal with the issue of exposure to toxic substances.

Both OSHA and NIOSH admitted in recent testimony given before your colleague, Representative Barney Frank, that 15 years after the OSHA Act was passed neither of them had adequate data on occupational diseases in the United States. Therefore, any Federal agency prevention program that is driven by the need to reduce workers compensation claims and costs will, for the most

part, completely overlook the problem of occupational disease and exposure to toxic substances.

Five, workers compensation data are subject to their own external forces such as changes in the law, changes in interpretations by the benefits review board and/or the courts, and changes in administrative policies. A separate, verifiable injury and illness reporting data base such as the BLS system for the private sector does not have these shortcomings.

We in this district, and others throughout AFGE, have seen during this administration a significant deterioration in the administration of the FECA program. This program is now characterized by interminable delays, lengthy extensive reviews of claims, and unreasonable requirements for exhaustive medical documentation. As a result, the word is getting out among Federal employees that they should use their sick leave, annual leave, or advance leave—anything except FECA. The nonperformance of FECA is so significant that our union has personally raised this issue with Secretary Brock. Given the problems that our members are having with FECA, we hardly believe that it is appropriate for the goals of the Federal agency program to be stated and evaluated in terms of workers compensation claims and costs.

We think it is highly regrettable that OSHA's Federal agency officials have chosen to come here today to talk about reductions in workers compensation claims and costs rather than what they should be talking about—reducing workplace health and safety hazards. What we are experiencing, Mr. Chairman, is nothing more than an abandonment of the Federal agency program mandate to reduce injuries and illnesses in favor of a cynical, politically motivated effort to manipulate the FECA program.

From the standpoint of Federal workers, Mr. Chairman, nothing could be worse. As a result, we get neither the aggressive safety and health leadership envisioned under Executive Order 12196, nor the responsible management of FECA workers compensation claims.

Before leaving the subject or workers compensation, I would like to make it clear that we in AFGE believe that under the Reagan administration both the workplace injury and illness prevention programs and compensation programs have suffered a great deal of damage. While we realize that FECA is outside the jurisdiction of this committee, we want to appeal to the committee to urge OSHA and the Federal agency program to get back to the business of injury and illness prevention and leave the worker compensation system to others.

We would like to see the 2.8 million civilian employees of the Federal Government receive no less protection than their counterparts in the civilian workforce. Toward that end, we would like to see the program's goals clearly articulated in responsible terms of reducing hazards and risks, and reducing work injuries, illnesses, and fatalities. If that is done, Mr. Chairman, I can assure you that the workers compensation claims rate and their associated costs will, indeed, go down.

I would like to see the program based on the kind of statistical reporting of the type mandated by Congress and carried out by BLS for private sector employers. I would like to see significant in-

creases in the number of safety and health experts and industrial hygienists assigned to the Federal agency program. I would like to see more spot checks and more technical assistance provided to Federal agencies. I would like to see the Federal Agency Injury and Illness Reporting Systems, or FARS, retained and based on the BLS private sector model.

As I understand it, Mr. Chairman, OSHA is proposing to abandon the Federal Agency Reporting System in favor of obtaining data under the Federal workers compensation system. What this means is that OSHA's Federal agency program is publicly admitting that after 15 years of trying they have been unable to persuade Federal agencies to even report injuries and illnesses, let alone take the steps necessary to reduce injuries and illnesses in the workplace. What this means is that the congressional mandate to collect comprehensive statistics on work-related injuries and illnesses, using the definition provided by the Congress, is being abandoned in the Federal sector.

The same limitations and problems with State workers compensation data that led the Congress to require OSHA to develop a separate, comprehensive work injury and illness data base for the private sector will also be found with the FECA data. OSHA has not adequately explained how the FECA data base will meet the statutory definitions of reporting and recordkeeping set forth by the Congress. OSHA has not adequately explained why it was unable to develop an adequate injury and illness reporting system in the Federal sector. OSHA has not explained why it is necessary to have a separate injury/illness reporting system for managing the private sector but not in the Federal sector. Rather than devote the resources and leadership necessary to implement a reporting system for Federal workplaces, OSHA has chosen the path of least resistance. We view this action as another indication of OSHA's retrenchment.

If you compare the reporting requirements of any workers compensation statute with the definitions of reportable injuries and illnesses in the OSHA Act, the OSHA Act requires significantly more reporting. Thus, OSHA's plans to switch from the FARS system to FECA significantly narrows the scope of injury and illness data available to OSHA to manage the Federal agency program. We believe that the reduction in the quality and quantity of data will be reflected in weaknesses in the Federal agency program down the road.

On the right to know, I would like to see the Federal Government become the leader rather than a laggard when it comes to issues of workers safety and health. For example, 34 States and municipalities have enacted "right to know" laws enabling workers to have vitally important information and training with respect to the hazardous chemicals to which they are potentially exposed.

As you know, OSHA's hazard communication standard was published in the Federal Register, November 25, 1983. While the standard applied to only 300,000 employers and covered only 15 million workers in the manufacturing sector, recent events have taken place which suggest that this standard will soon be applied to all private sector employers and employees. OSHA itself has asked the National Advisory Committee on Safety and Health for its views

on expanding the scope of the standard. Recently, the Third Circuit Court in Philadelphia ordered the Secretary to either expand the standard to all employees or explain to the court why it is not feasible.

For the past 10 years, Mr. Chairman, the States and now the Federal Government have recognized the fundamental rights of private sector employees to know the health risks of chemicals where they work. During all this time, the OSHA Federal agency program has failed to provide any guidance or leadership on this issue. We in AFGE are deeply concerned that the important and fundamental right to know and the right to have training before being exposed to chemical risks will not be provided to Federal workers.

Federal employees, like those in civilian pursuits, encounter serious exposures and risks for toxic substances. In addition to the widely publicized risks of asbestos exposure in Federal buildings, there are thousands of hazardous chemicals in hospitals, laboratories, printing shops, offices, warehouses, and government-owned contractor-operated facilities.

We believe that Federal workers should receive the same protection as employees in the private sector, including the right to know chemical names and individual identifiers of all chemicals to which they are potentially exposed; the right to have at the worksite the Material Safety Data sheets provided by employers that describe the health effects of the chemical and the safety precautions that should be taken when working with it; the right to see a master list of all hazardous chemicals used in an agency or facility; the right to employee training prior to assignment to a work area where potential exposure to toxic substances exists; and the right to be covered by a comprehensive agency-written hazard communication program that would commit each agency to the program outlined above.

As Mr. Blaylock stated in his letter to your committee:

> We believe that the right to know about toxic substances is a fundamental issue. Without that information, employees cannot take the precautions necessary to protect themselves and avoid injury and disease.

There are those who will argue that the present OSHA "right to know" requirements covering the manufacturing sector will spill over to the rest of the economy, including the public sector. They base this on the belief that chemical manufacturers and importers will provide all their customers with products that contain warning labels and MSDS's.

Mr. Chairman, I can tell you now that workers throughout this country, including Federal employees, are tired of trickle-down economics. Now when we ask for the right to know about toxic chemicals in the workplace, the officials at OSHA want to give us trickle-down regulation. If they were serious about reducing workers compensation costs and claims, they would be mounting an aggressive Federal right-to-know program. Such a program would encourage the purchasers of Government supplies to choose the safest available product. Such a program would require all agencies to have a written hazard communication program, to label the workplace, to

train employees, and to provide the engineering controls and other measures necessary to reduce and control chemical risks.

I would like to remind those officials at OSHA who believe it can't be done in the Federal sector that the Safety and Health Office at the Environmental Protection Agency is right now in the process of issuing a comprehensive employee right-to-know material safety data sheet and training program for all EPA employees. This program will be based on an EPA Hazard Communication Order. The order will require the agency to develop a comprehensive chemical inventory, to compile a file of MSDS's, and to provide training to employees. In fact, EPA is planning to go beyond the MSDS requirements of the OSHA standard. EPA officials indicated they planned to develop, from public and private data sources, reference data on chemicals which they will use to check the completeness and accuracy of MSDS data supplied by chemical manufacturers and importers. In the past, the chemical industry has all too often chosen to withhold vitally important information, particularly about the longer term risks of exposure to their products.

At this point, I would like to introduce into evidence a material safety data sheet provided by a company on its chemicals and an alternative list of the hazards associated with it provided by a private consulting firm.

Mr. GAYDOS. Without objection, it will be accepted and made a part of the record.

Mr. URQUHART. Thank you.

The EPA program, which was developed without any leadership from OSHA's Federal agency program, should be looked at by OSHA to see if it can serve as a model for all Federal agencies.

In closing, I would also like to ask the committee to see what can be done to protect Federal employees from the safety and health risks associated with new and rapidly expanding technologies, such as the use of computers and VDT screens. I have seen data that suggest that nearly one out of two employees who use a VDT regularly experience some symptoms including eyestrain, musculoskeletal problems, and/or back problems. I have been informed that many of these symptoms can be relieved by placing the VDT's on ergonomically designed desks, by controlling the lights and glare from the screens, by work breaks, by eye exams, and in some cases by changing the prescriptions for eye glasses.

We believe the eye exams and new prescriptions should be furnished to employees by the Federal Government because employees' personal prescriptions may not be adequate to deal with the altered focal distance that the screens are placed from their eyes. Despite the enormous influx of this new technology in the Federal Government, OSHA's Federal agency program has provided no leadership and no guidelines. Both NIOSH and EPA are developing programs for eye exams, rest breaks, ergonimic furniture and glare control, and I am happy to report, Mr. Chairman, that the Labor Department is also developing guidelines for its use of VDT's.

Mr. Chairman, I want to thank you for holding these hearings and for focusing attention on the problem of safety and health in the Federal workplace. I would be happy to answer any questions you might have.

[Prepared statement of Michael Urquhart, with attachments, follows:]

PREPARED STATEMENT OF MICHAEL URQUHART, PRESIDENT, LOCAL 12, U.S. DEPARTMENT OF LABOR, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEERS [AFGE]

Mr. Chairman and Members of the Subcommittee, I thank you for the opportunity to discuss with you the important issue of how we can improve safety and health in the nation's largest place of employment, the Federal government. I am Michael Urquhart, President of Local 12, AFGE, the local that represents 5,000 Labor Department employees in the Washington metropolitan area. Mr. Blaylock has asked me to appear today on behalf of AFGE because he is unable to be here. However, Mr. Blaylock has sent the committee a letter which raises a number of important issues which I hope you will make part of the record of this proceeding.

To begin with, all of us in AFGE support President Reagan's goal of reducing government wide workplace injuries and illnesses by three percent per year over a five year period. We have no problem with the goals of this program, nor its targetting the fourteen agencies, including the Postal Service, which account for most of the workplace injuries.

INJURY/ILLNESS REPORTS

We have serious disagreements with the strategy which the Administration and OSHA's Federal Agency Program have selected to achieve this goal. The Federal Agency Program—in our view—has abandoned the goal of reducing worker injuries and illnesses and instead is pursuing the goal of reducing workers' compensation costs as measured by Federal Employee Compensation Act claims data.

We believe that if the Federal Agency program were carried out effectively, if it had sufficient resources, leadership and commitment their goals would be stated and performance measured in terms of reducing workplace injuries and illnesses. By reducing or eliminating the risks and hazards that cause work-related diseases and injuries, the program would automatically produce decreases in workers' compensation claims and costs.

However, to reduce or eliminate workplace risks takes commitment, resources, and leadership, three things that we find sorely lacking in OSHA's Federal Agency program today. To reduce workplace injuries and diseases, it takes trained industrial hygienists, safety inspectors, and substantial increases in the number of spot checks of safety and health conditions among Federal agencies.

When the Congress enacted the Occupational Safety and Health Act of 1970, it carefully wrote into the law the definition of what constituted a reportable work injury illness. Section 24 (a) of PL 91 596 states:

". . . The Secretary shall compile accurate statistics on work injuries and illnesses, which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job."

This definition was much broader than the definition for reportable injuries (or illnesses) covered by most state workers compensation statutes. It also goes well beyond the current definition of a reportable injury/illness of the Federal Employee Compensation Act. Congress thus recognized that existing workers compensation claims information represented an inadequate data base upon which to build a national program of occupational injury and disease prevention. As a result, the National OSHA/BLS work injury/disease reporting system was developed. This system requires employers to maintain detailed logs of work injuries and illnesses according to the definition in the law. An annual survey collects a statistically valid sample of the data in order to develop year-to-year injury and illness statistics for the nation.

While it is true BLS also collects supplemental data on work injuries and diseases from participating state workers' compensation agencies, the OSHA national safety and health goals, targetting systems, and priorities for private sector enforcement are drawn from the data employers are required to keep on the OSHA logs for injuries and illnesses.

We believe it is improper and inadequate to articulate the Federal Agency Program's goals in terms of workers compensation claims or costs for these reasons:

1. Congress gave OSHA a definition of what constituted a work injury/illness along with the authority to collect national statistics on injuries and illnesses.

2. This reflected a Congressional decision that workers' compensation data were inadequate for injury/illness prevention purposes.

3. By focusing on workers compensation, rather than risk reduction and injury illness prevention, the Administration creates a climate within which short term pressures can be applied to agencies, supervisors and employees (as well as FECA officials) to reduce workers compensation claims and costs at the expense of Federal employees.

4. Workers Compensation data, for the most part, do not reflect the incidence and prevalence of occupational/environmental diseases. Typically, in a workers' compensation program only 1-2% of the cases filed are for occupational diseases. Most of these cases involve easy to diagnose conditions such as contact dermatitis or repetitive motion injuries that are classified as occupational diseases because they occur over time rather than suddenly. There are a number of reasons for the relatively few occupational disease workers' compensation cases that are filed including: Difficulties in diagnosing occupational diseases; a long latency period that occur between exposure and illness; multiple causation of diseases including environmental exposure, occupational exposure, lifestyle and genetics; lack of education among U.S. physicians with respect to the occupational/environmental etiology of disease; the basic injury orientation of workers' compensation programs has not been adopted to deal with the issue of exposure to toxic substances.

Both OSHA and NIOSH admitted in recent testimony given before your colleague Representative Barney Frank that fifteen years after the OSHA Act was passed neither of them had adequate data on occupational diseases in the U.S. Therefore, any Federal Agency prevention program that is driven by the need to reduce workers' compensation claims and costs will, for the most part, completely overlook the problem of occupational disease and exposure to toxic substances.

5. Workers compensation data are subject to their own external forces, such as changes in the law, changes in interpretations by the Benefits Review Board, and or courts, and changes in administrative policies. A separate, verifiable injury and illness reporting data base such as the BLS system for the private sector, does not have these shortcomings.

We in this district, and others throughout AFGE, have seen during the Reagan Administration, a significant deterioration in the Administration of the FECA program. This program is now characterized by interminable delays, lengthy, extensive reviews of claims, and unreasonable requirements for exhaustive medical documentation. As a result, the word is getting out among Federal Employees that they should use their sick leave, annual leave, or advance leave—anything except FECA. The non-performance of FECA is so significant that our union has personally raised this issue with Secretary Brock. Given the problems that our members are having with FECA, we hardly believe that it is appropriate for the goals of the Federal agency program to be stated and evaluated in terms of workers compensation claims and costs.

We think it is highly regrettable that OSHA's Federal Agency officials have chosen to come here today to talk about reductions in workers compensation claims and costs rather than what they should be talking about, reducing workplace health and safety hazards. What we are experiencing Mr. Chairman, is nothing more than an abandonment of the Federal Agency Program mandate to reduce injuries and illnesses in favor of a cynical, politically motivated effort to manipulate the FECA program.

From the standpoint of Federal workers, Mr. Chairman, nothing could be worse. As a result, we get neither the aggressive safety and health leadership envisioned under Executive Order 12196, or the responsible management of FECA workers' compensation claims.

Before leaving the subject of workers' compensation, I would like to make it clear that we in AFGE believe that under the Reagan Administration both the workplace injury/illness prevention programs and compensation programs have suffered a great deal of damage. While we realize that the FECA is outside the jurisdiction of this committee, we want to appeal to the committee to urge OSHA and the Federal Agency Program to get back to the business of injury and illness prevention and leave the worker compensation system to others.

We would like to see the 2.8 million civilian employees of the Federal government receive no less protection than their counterparts in the civilian workforce. Toward that end, we would like to see the program's goals clearly articulated in responsible terms of reducing hazards and risks, and reducing work injuries, illnesses, and fatalities. If that is done, Mr. Chairman, I can assure you that the workers' compensation claims rates and their associated costs, will indeed go down.

I would like to see the program based on the kind of statistical reporting of the type mandated by Congress and carried out by BLS for private sector employers. I would like to see significant increases in the number of safety and health experts

and industrial hygiensts assigned to the Federal Agency Program. I would like to see more spot checks, and more technical assistance provided to Federal agencies. I would like to see the Federal Agency Injury and Illness Reporting System (FARS) retained and based on the BLS private sector model.

As I understand it, Mr. Chairman, OSHA is proposing to abandon the Federal Agency Reporting System (FARS) in favor of obtaining data under the Federal workers' compensation system. What this means is that OSHA's Federal Agency Program is publicly admitting that after fifteen years of trying, they have been unable to pursuade Federal agencies to even report injuries and illnesses let alone take the steps necessary to reduce injuries and illnesses in the workplace. What this means is that the Congressional mandate to collect comprehensive statistics on work related injuries and illnesses, using the definitions provided by the Congress, is being abandoned in the Federal sector.

The same limitations and problems with state workers' compensation data that led the Congress to require OSHA to develop a separate, comprehensive work injury and illness data base for the private sector will also be found with the FECA data. OSHA has not adequately explained how the FECA data base will meet the statutory definitions of reporting and recordkeeping set forth by the Congress. OSHA has not adequately explained why it was unable to develop an adequate injury and illness reporting system in the Federal sector. OSHA has not explained why it is necessary to have a separate injury/illness reporting system for managing the private sector, but not in the Federal sector. Rather then devote the resources and leadership necessary to implement a reporting system for Federal workplaces, OSHA has chosen the path of least resistance. We view this action as another indication of OSHA's retrenchment.

If you compare the reporting requirements of any workers compensation statute with the definitions of reportable injuries and illnesses in the OSH Act, the OSH Act requires significantly more reporting. Thus, OSHA's plans to switch from the FAR system to FECA significantly narrows the scope of injury and illness data available to OSHA to manage the Federal Agency Program. We believe that the reduction in the quality and quantity of data will be reflected in weaknesses in the Federal agency program down the road.

RIGHT TO KNOW

I would like to see the Federal government become the leader, rather than a laggard, when it comes to issues of workers safety and health. For example, 34 states and municipalities have enacted "Right to Know" laws enabling workers to have vitally important information and training with respect to the hazardous chemicals to which they are potentially exposed.

As you know, OSHA's Hazard Communication Standard was published in the Federal Register November 25, 1983. While this standard applied only to 300,000 employers and covered only 15 million workers in the manufacturing sector, recent events have taken place which suggest that this standard will soon be applied to all private sector employers and employees. OSHA itself has asked the National Advisory Committee on Safety and Health for its views on expanding the scope of the standard. Recently, the Third Circuit Court in Philadelphia, ordered the Secretary to either expand the standard to all employees or explain to the court why it is not feasible.

For the past ten years, Mr. Chairman, the States and now the Federal government have recognized the fundamental rights of private sector employees to know the health risks of chemicals where they work. During all this time, the OSHA Federal Agency Program hs failed to provide any guidance or leadership on this issue. We in AFGE are deeply concerned that the important and fundamental right to know, and the right to have training before being exposed to chemical risks, will not be provided to Federal workers.

Federal employees, like those in civilian pursuits, encounter serious exposures and risks from toxic substances. In addition to the widely publicized risks of asbestos exposure in Federal buildings, there are thousands of hazardous chemicals in hospitals, laboratories, printing shops, ofices, warehouses, and government owned-contractor operated facilities.

We believe that Federal workers should receive the same protection as employees in the private sector including:

The right to know the chemical names, and individual identifiers of all chemicals to which they are potentially exposed.

The right to have at the worksite the Material Safety Data sheets provided by employers that describe the health effects of the chemical and the safety precautions that should be taken when working with it.

The right to see a master list of all hazardous chemicals used in an agency or facility.

The right to employee training prior to assignment to a work area where potential exposure to toxic substances exists.

The right to be covered by a comprehensive agency "written hazard communication program" that would commit each agency to the program outlined above.

As Mr. Blaylock stated in his letter to your committee ". . . we believe that the right to know about toxic substances is a fundamental issue. Without that information employees cannot take the precautions necessary to protect themselves and avoid injury and disease."

There are those who will argue that the present OSHA right to know requirements covering the manufacturing sector will "spillover" to the rest of the economy including the public sector. They base this on the belief that chemical manufacturers and importers will provide all their customers with products that contain warning labels and MSCS's.

Mr. Chairman, I can tell you now that workers throughout this country, including Federal employees, are tired of trickle down economics. Now, when we ask for the right to know about toxic chemicals in the workplace, the officials at OSHA want to give us trickle down regulation. If they were serious about reducing workers' compensation costs and claims, they would be mounting an agressive Federal right to know program. Such a program would encourage the purchasers of government supplies to choose the safest available product. Such a program would require all agencies to have a written hazard communication program, to label the workplace, to train employees, and to provide the engineering controls and other measures necessary to reduce and control chemical risks.

I would like to remind those officials at OSHA who believe it "can't be done in the Federal sector" that the Safety and Health Office at the Environmental Protection Agency is right now in the process of issuing a comprehensive employee right to know, material safety data sheet, and training program for all EPA employees. This program will be based on an EPA Hazard Communication Order. The order will require the agency to develop a comprehensive chemical inventory, to compile a file of MSDS's, and to provide training to employees. In fact, EPA is planning to go beyond the MSDS requirements of the OSHA standard. EPA officials indicated they planned to develop, from public and private data sources, reference data on chemicals which they will use to check the completeness and accuracy of MSDS data supplied by chemical manufacturers and importers. In the past, the chemical industry has all too often chosen to withhold vitally important information particularly about the longer term risks of exposure to their products.

The EPA program—which was developed without any leadership from OSHA's Federal Agency Program—should be looked at by OSHA to see if it can serve as a model for all Federal Agencies.

VIDEO DISPLAY TERMINALS [VDT'S]

In closing, I would also like to ask the Committee to see what can be done to protect Federal employees from the safety and health risks associated with new and rapidly expanding technologies such as the use of computers and VDT screens. I have seen data that suggest that nearly one out of two employees who use a VDT regularly experiences some symptoms including eye strain, musculoskeletal problems, and/or back problems. I have been informed that many of these symptoms can be relieved by placing the VDT's on ergonomically designed desks, by controlling the lights and glare from the screens, by work breaks, by eye exams and in some cases by changing the prescriptions for eyeglasses.

We believe the eye exams and new prescriptions should be furnished to employees by the Federal government because employees' personal prescriptions may not be adequate to deal with the altered focal distance that the screens are placed from their eyes. Despite the enormous influx of this new technology in the Federal government, OSHA's Federal Agency Program has provided no leadership and no guidelines. Both NIOSH and EPA are developing programs for eye exams, rest breaks, ergonomic furniture, and glare control.

Mr. Chairman, I want to thank you for holding these hearings and for focusing attention on the problem of safety and health in the Federal workplace.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Washington, DC, June 11, 1985.

Hon. JOSEPH M. GAYDOS,
Chairman, Subcommittee on Health and Safety, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CHAIRMAN GAYDOS: I understand that you Subcommittee on Health and Safety has scheduled oversight hearings on June 12, 1985, to review the performance of the Occupational Safety and Health Administration (OSHA) with respect to how the agency monitors the quality of workplace safety and health programs in the Federal sector. As you know, we in AFGE have long been concerned that OSHA's Federal Agency Program has not provided sufficient leadership, or resources, to effectively carry out their responsibilities under Executive Order 12196. In that regard, we wholeheartedly support your Committee's efforts to provide effective oversight and to encourage OSHA and other Federal agencies involved to provide a safer and more healthful workplace for all federal employees.

Toward that end, I hope that your Committee could use the forthcoming hearing to determine what—if anything—OSHA's Federal Agency Program will require government agencies to do about their responsibility to inform federal employees about the hazards and risks associated with potential exposures to toxic substances. As you know, OSHA's Hazard Communication Standard was published in the Federal Register on November 25, 1983.

By November 25, 1985, chemical manufacturers and importers must have completed their reviews of their products to determine which chemicals are, or are not, hazardous. In addition, by this date, they must affix warning labels on containers and provide manufacturing sector customers with Material Safety Data Sheets (MSDS) which describe the health risks of the chemical and the precautions to be taken when working with it. Those portions of this standard which require private sector employers in the manufacturing sector to provide employees with warnings, training programs, and specific information on the chemical risks to which they are exposed take effect on May 27, 1986.

Recently, OSHA indicated that it may elect to broaden the scope of the right to know standard to include not only the fourteen million employees in the manufacturing sector, but to all private sector employees as well. The movement toward broadening the applicability of this historic right to know program was given additional impetus recently when the Third Circuit, in Philadelphia, ruled in favor of an AFL-CIO suit, and ordered the Secretary of Labor to expand the right to know provisions to all sectors of the economy, or indicate to the court why it was not feasible to do so.

At this time everyone concerned fully expects that the important right to know what chemical you are working with, the right to know the hazards associated with that chemical, and the right to have special training to protect yourself from these hazards will soon be extended to the entire civilian labor force.

We in AFGE are deeply concerned that these important protections may not be extended to federal government employees. In the past, OSHA safety and health standards have been incorporated into the Federal Agency Safety and Health Program and, through that program and Executive Order 12196, provided federal workers protection comparable to that afforded private sector employees.

Federal employees, like their civilian counterparts, encounter exposures and risks from toxic substances. There are known health hazards associated with work in hospitals, laboratories, printing shops, materials handling facilities, warehouses, and government-owned contractor operated facilities. Despite the fact that federal workers are exposed to toxic substances, and despite the fact that OSHA has been working on various right to know standards for over a decade, there has been no movement toward providing federal workers with comparable protection. Even though the Federal standard has been on the books for months, and a major portion of it is due to take effect in November, 1985, OSHA has yet to develop any position papers, policies, or guidelines for the Federal sector.

We believe that federal workers should receive no less protection than contemplated for employees in the private sector. At a minimum, this includes:

The right to know the chemical names, chemical abstract numbers, and individual identifiers of all hazardous chemicals to which they are potentially exposed.

The right to have at the worksite the Material Safety Data Sheet describing the health effects of the chemical and the safety precautions that should be taken when working with it.

The right to see a master list of all hazardous chemicals used in a given agency or work facility.

The right to comprehensive employee training prior to assignment to a work area where potential exposure to toxic substances exists.

In addition, we believe that Federal agencies should be required, like their civilian counterparts, to prepare a written hazard communication plan which sets forth in detail how the agency plans to meet its responsibilities toward its employees. This plan, like similar plans in the private sector, should be available to employees and their collective bargaining agents.

We believe that the right to know about toxic substances is a fundamental issue. Without that information, employees cannot take the precautions necessary to protect themselves and avoid injury. Without this information employees, whose health has been impaired by exposure, cannot secure their rights under the Federal Employee Compensation Act.

We would greatly appreciate any assistance you can give us in bringing this important issue to the attention of the proper officials in OSHA and the Federal sector.

Sincerely,

KENNETH T. BLAYLOCK,
National President.

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

Form Approved
OMB No. 44-R1387

MATERIAL SAFETY DATA SHEET

Required under USDL Safety and Health Regulations for Ship Repairing, Shipbuilding, and Shipbreaking (29 CFR 1915, 1916, 1917)

SECTION I

MANUFACTURER'S NAME	EMERGENCY TELEPHONE NO.
WAYNE CHEMICAL CORP.	1-800-424-9300
ADDRESS (Number, Street, City, State, and ZIP Code) 300 S. P[illegible] Ave. Street, Milwaukee, Wisconsin 53204	
CHEMICAL NAME AND SYNONYMS Lead Chromate; Pigment Yellow-34; C.I. 77600	TRADE NAME AND SYNONYMS Chrome Yellow Med. Code 89
CHEMICAL FAMILY Inorganic Pigments	FORMULA $PbCrO_4$

SECTION II · HAZARDOUS INGREDIENTS

PAINTS, PRESERVATIVES, & SOLVENTS	%	TLV (Units)	ALLOYS AND METALLIC COATINGS	%	TLV (Units)
PIGMENTS Lead as Pb	60	0.15mg/m³	BASE METAL		
CATALYST			ALLOYS		
VEHICLE			METALLIC COATINGS		
SOLVENTS			FILLER METAL PLUS COATING OR CORE FLUX		
ADDITIVES			OTHERS		
OTHERS Chromate as CrO_4	30	0.10mg/m³			

HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES	%	TLV (Units)
Actual compound is $PbCrO_4$ and components as given above are only		
way of expressing the contents of the product.		

SECTION III · PHYSICAL DATA

BOILING POINT (°F.)	N/A	SPECIFIC GRAVITY (H_2O=1)	5.32
VAPOR PRESSURE (mm Hg.)	N/A	PERCENT, VOLATILE BY VOLUME (%)	1.0
VAPOR DENSITY (AIR=1)	N/A	EVAPORATION RATE (_____ =1)	N/A
SOLUBILITY IN WATER	slight		
APPEARANCE AND ODOR	Pale Yellow Powder; Odorless		

SECTION IV · FIRE AND EXPLOSION HAZARD DATA

FLASH POINT (Method used)	N/A	FLAMMABLE LIMITS	Lel	Uel
EXTINGUISHING MEDIA	Water			
SPECIAL FIRE FIGHTING PROCEDURES	N/A			
UNUSUAL FIRE AND EXPLOSION HAZARDS	N/A			

(Continued on reverse side)

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SECTION V - HEALTH HAZARD DATA

THRESHOLD LIMIT VALUE: See Section II

EFFECTS OF OVEREXPOSURE: No immediate harmful effects. Repeated breathing of excessive concentrations can cause minor irritation of skin and mucus membranes.

EMERGENCY AND FIRST AID PROCEDURES: Wash thoroughly with soap and water, especially when exposed to open cuts. Consult physician if ingested.

SECTION VI - REACTIVITY DATA

STABILITY	UNSTABLE		CONDITIONS TO AVOID
	STABLE	X	

INCOMPATABILITY *(Materials to avoid)*

HAZARDOUS DECOMPOSITION PRODUCTS

HAZARDOUS POLYMERIZATION	MAY OCCUR		CONDITIONS TO AVOID
	WILL NOT OCCUR	X	

SECTION VII - SPILL OR LEAK PROCEDURES

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED: Wear respirator; vacuum into receptacle for disposal. Wash area with water.

WASTE DISPOSAL METHOD: Sanitary landfill in accordance with local, state, and federal regulations.

SECTION VIII - SPECIAL PROTECTION INFORMATION

RESPIRATORY PROTECTION *(Specify type)*: Dust respirators approved by NIOSH

VENTILATION	LOCAL EXHAUST: Required		SPECIAL
	MECHANICAL *(General)*		OTHER

PROTECTIVE GLOVES: Leather gloves

EYE PROTECTION: Safety goggles

OTHER PROTECTIVE EQUIPMENT: Throw away plastic inserts in leather gloves.

SECTION IX - SPECIAL PRECAUTIONS

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORING: Store in dry area; keep containers tightly closed; protect from physical damage; avoid dust.

OTHER PRECAUTIONS: Change clothes before eating, wash face and hands before eating or smoking; keep away from food or food products. Periodic blood tests.

that has not been proven to cause serious long-term health problems).

Since the MSDS is prepared by the same firm which is selling the products, **never trust the health hazard information listed on the MSDS to be complete.**

Notice that on the MSDS for lead chromate pigment, the Health Hazard Data section (page 76) says that "minor irritation of skin and mucous membranes" can occur if you breathe the vapors repeatedly. The MSDS **doesn't say** that lead chromate can cause lead poisoning or even lung cancer, far more serious health effects than "minor irritation." Because it is often incomplete, a MSDS is usually more valuable for its information on **chemical contents** than on the possible health hazards.

If your employer doesn't have a MSDS or other records which describe the material, the employer should at least provide the purchase orders for work materials used on the job site.

The OSHA Access standard does **not** require the employer to obtain MSDSs or to create a record of hazardous substances to which workers may be exposed. The standard requires only that the employer make MSDSs or records available **if** the employer already has them.

Your contract rights: A number of unions have negotiated clauses in their contracts which guarantee the right to chemical names and other safety and health information.

Armed with such contract language, unions can enforce their right to information through grievances without having to go through the long process of filing complaints with government agencies.

Ask the supplier

When an employer does not have a MSDS or similar record, you should write the manufacturer directly and request chemical content information.

You should also contact the manufacturer if the MSDS does not answer all your questions.

Unfortunately, the manufacturer *is not obligated* to provide you with any information. A sample letter asking the manufacturer of the work material for a MSDS is on page 47.

OSHA'S HAZARD COMMUNICATION AND LABELLING STANDARD

The Federal OSHA Hazard Communication and labelling standard (A "right to know" standard) may not be as strong as some of the state and local laws, but it does give you some important rights. The major issue of whether the Federal OSHA "right to know" standard will preempt state and local laws — for the time being at least — must be left to the lawyers and the courts. From OSHA's perspective, they intended to preempt the state and local laws. Some observers believe the existence of some stronger state and local laws was one of the major reasons big business and the Reagan Administration got behind the idea of a federal right to know standard at all.

The standard required manufacturers, importers and distributors of chemical products to prepare and send to their customers Material Safety Data Sheets (MSDS's) which describe the safety and health information that is known (or unknown) about their products and recommend safe workplace practices (including exposure levels) to prevent workers from being harmed. Manufacturers, importers and distributors must also place appropriate labels on their products.

The chemical industry's customers in the manufacturing industries (standard industrial classification codes 20-39) must follow the recommendations of the MDSD's and institute a special program of training, hazard recognition, and employee protection based on the incoming hazard information from the chemical industry. They must also post the MSDS's in a prominent place near the workers potentially exposed and placed special warning labels and placards in areas where chemicals are being used. Workers in the non-manufacturing sector (such as construction) will presumably benefit from this standard also. While their employers will not be directly covered by the mandatory provisions of the hazard communication standard, chemical firms undoubtedly will send MSDS's and labelled products to all consumers in an effort to prevent lawsuits based on their failure warn or failure to label. The employers in the non-manufacturing sector who want to avoid lawsuits and workers' compensation claims based on failure to protect their employees will probably also implement many of the hazard communication recommendations such as employee protection, training, and workplace placards and labels.

In any case, these new labels and MSDS's must be sent to chemical industry customers by November 25, 1985. By May 27, 1986 all the 318,000 chemical industry customers in the manufacturing sector must have the employee training and workplace labelling provisions in place. The standard is fairly specific about what kind of information the MSDS prepared by the chemical company must contain. Even if your workplace is not directly covered by the standard, you can write the company and ask for the MSDS for a specific product. The

AFL-CIO Ohio Occupational Disease Training Manual

MATERIAL SAFETY DATA SHEET

OCCUPATIONAL HEALTH SERVICES, INC.
400 PLAZA DRIVE
HARMON MEADOWS
SECAUCUS, NJ 07094
1-800-223-8978

EMERGENCY CONTACTS:
JOHN C. BRANCFORD, JR. (615)292-1180
MATTHEW T. HUNTER (615)833-8999

SUBSTANCE IDENTIFICATION

CAS-NUMBER 7758-97-6

CHEMICAL NAME: LEAD CHROMATE
TRADE NAMES/SYNONYMS: CHROMIC ACID, LEAD(2+) SALT; LEAD CHROMATE(VI); CHROME GREEN; CHROME YELLOW; CHROME LEMON; KING'S YELLOW; LEIPZIG YELLOW; LEMON YELLOW; PARIS YELLOW; PLUMBOUS CHROMATE; CROCOITE; CHROMIUM YELLOW; COLOGNE YELLOW; PIGMENT GREEN 15; CHROME YELLOW G; DAINICHI; LEAD(VI) CHROMATE; DH-1250

CHEMICAL FAMILY:
INORGANIC SALT

MOLECULAR FORMULA: PB-CR-O4 MOL WT: 323.22

CAMEO HAZARD RATING: (SCALE 0-3):
HEALTH-3 FIRE-0 REACTIVITY-0 PERSISTENCE-3

COMPONENTS AND CONTAMINANTS

PERCENTAGE: 100%. COMPONENT: LEAD CHROMATE

OTHER CONTAMINANTS: NONE

EXPOSURE LIMITS: 0.05 MG/PB/M3 OSHA TWA; 0.1 MG/CRO3/M3 OSHA CEILING; 0.15 MG/PB/M3 ACGIH TWA; 0.05 MG/CR/M3 ACGIH TWA; 0.10 MG/PB/M3 NIOSH TWA; 1 UG/CR/VI/M3 NIOSH CEIL

PHYSICAL DATA

HAZARD DESCRIPTION: YELLOW TO YELLOW-ORANGE POWDER OR CRYSTALS.

BOILING POINT: DECOMPOSES MELTING POINT: 1551 F (844 C)
SPECIFIC GRAVITY: 6.1 SOLUBILITY IN WATER: INSOLUBLE

SOLVENT SOLUBILITY: SOLUTIONS OF FIXED ALKALI HYDROXIDES; DIL HNO3

FIRE AND EXPLOSION DATA

FIRE AND EXPLOSION HAZARD:
NEGLIGIBLE FIRE HAZARD AND EXPLOSION HAZARD WHEN EXPOSED TO HEAT OR FLAME.

FLASH POINT: NON-FLAMMABLE

FIREFIGHTING MEDIA:
DRY CHEMICAL, CARBON DIOXIDE, WATER SPRAY OR FOAM
(1984 EMERGENCY RESPONSE GUIDEBOOK, DOT P 5800.3).

FOR LARGER FIRES, USE WATER SPRAY, FOG OR ALCOHOL FOAM
(1984 EMERGENCY RESPONSE GUIDEBOOK, DOT P 5800.3).

FIREFIGHTING:
MOVE CONTAINERS FROM FIRE AREA IF POSSIBLE (1984 EMERGENCY RESPONSE GUIDEBOOK, DOT P 5800.3).

EXTINGUISH USING AGENT INDICATED. USE FLOODING AMOUNTS OF WATER AS A FOG. AVOID BREATHING DUSTS AND FUMES FROM BURNING MATERIAL; KEEP UPWIND. (BUREAU OF EXPLOSIVE, EMERGENCY HANDLING OF HAZARDOUS MATERIALS IN SURFACE TRANSPORTATION, 1981).

TOXICITY

156 MG/KG INTRAPERITONEAL-GUINEA PIG; MUTAGENIC DATA (RTECS); ANIMAL CARCINOGEN (IARC); HUMAN CARCINOGEN (IARC, NTP).
LEAD CHROMATE IS A SEVERE PULMONARY IRRITANT, A LUNG CARCINOGEN, A PRIMARY SKIN IRRITANT AND SENSITIZER, AND PERIPHERAL NEUROTOXIN. POISONING MAY AFFECT THE NERVOUS SYSTEM, GASTROINTESTINAL TRACT, BLOOD AND KIDNEYS.

HEALTH EFFECTS AND FIRST AID

INHALATION:
CORROSIVE-NEUROTOXIC-CARCINOGEN. 30 MG/M3 IMMEDIATELY DANGEROUS TO LIFE AND HEALTH.
ACUTE EXPOSURE- PARTICULATE INHALATION MAY CAUSE COUGHING, NAUSEA, METALLIC TASTE, AND IRRITATION OF THE RESPIRATORY TRACT. IF ABSORPTION IS SUFFICIENT, ABDOMINAL PAIN, LEG CRAMPS, MUSCLE WEAKNESS, PARESTHESIAS, DEPRESSION, AND COMA MAY OCCUR.

CHRONIC EXPOSURE- FREQUENT AND LONG TERM INHALATION MAY CAUSE NOSEBLEEDS, ULCERATION AND PERFORATION OF THE NASAL SEPTUM, ACUTE HEPATITIS, LEAD POISONING, AND LUNG CANCER. SYMPTOMS OF LEAD POISONING INCLUDE FACIAL PALLOR, 'LEAD LINE' IN THE GUMS, MILD JAUNDICE, ANEMIA, EXCESSIVE LEAD CONCENTRATIONS IN THE URINE AND BLOOD, AND PERIPHERAL NEUROPATHY. THE PERIPHERAL NERVE AFFECTED MOST FREQUENTLY IS THE RADIAL NERVE WHICH CAUSES A CONDITION KNOWN AS "WRIST DROP".

FIRST AID- REMOVE FROM EXPOSURE AREA TO FRESH AIR IMMEDIATELY. IF BREATHING HAS STOPPED, GIVE ARTIFICIAL RESPIRATION. KEEP AFFECTED PERSON WARM AND AT REST. GET MEDICAL ATTENTION IMMEDIATELY.

SKIN CONTACT:
SEVERE IRRITANT/SENSITIZER.
ACUTE EXPOSURE- SKIN CONTACT MAY PRODUCE SKIN LESIONS (CHROME ULCERS) WHICH ARE PAINLESS BUT SLOW TO HEAL, AND PRODUCE DEPRESSED SCAR TISSUE.

CHRONIC EXPOSURE- SENSITIZATION DERMATITIS ACCOMPANIED BY ECZEMA IS COMMON.

FIRST AID- REMOVE CONTAMINATED CLOTHING AND SHOES IMMEDIATELY. WASH AFFECTED AREA WITH SOAP OR MILD DETERGENT AND LARGE AMOUNTS OF WATER UNTIL

NO EVIDENCE OF CHEMICAL REMAINS (APPROXIMATELY 15-20 MINUTES).
GET MEDICAL ATTENTION.
FOR CHRONIC POISONING: TREAT DERMATITIS WITH 1% ALUMINUM ACETATE WET DRESSING. AVOID FURTHER EXPOSURE TO CHROMATE. (DREISBACH, HANDBOOK OF POISONING, 11TH ED.)

EYE CONTACT:
IRRITANT.
ACUTE EXPOSURE- PARTICULATES IN THE EYE MAY CAUSE IRRITATION, LACRIMATION, AND CONJUNCTIVITIS.

CHRONIC EXPOSURE- CONJUNCTIVITIS MAY OCCUR.
FIRST AID- WASH EYES IMMEDIATELY WITH LARGE AMOUNTS OF WATER, OCCASIONALLY LIFTING THE UPPER AND LOWER LIDS, UNTIL NO EVIDENCE OF CHEMICAL REMAINS (APPROXIMATELY 10-20 MINUTES). GET MEDICAL ATTENTION.

INGESTION:
NEUROTOXIN.
ACUTE EXPOSURE- INGESTION MAY CAUSE METALLIC TASTE, INTENSE THIRST, ABDOMINAL PAIN, VOMITING, GASTROINTESTINAL DISTURBANCES, AND SHOCK. DEATH MAY RESULT FROM UREMIA.

CHRONIC EXPOSURE- CHRONIC INGESTION MAY CAUSE LEAD POISONING WITH FACIAL PALLOR, A 'LEAD LINE' IN THE GUMS, MILD JAUNDICE, ANEMIA, AN EXCESSIVE CONCENTRATION OF LEAD IN THE URINE AND BLOOD, AND PERIPHERAL NEUROPATHY RESULTING IN A CONDITION KNOWN AS 'WRIST DROP'.

FIRST AID- IF VICTIM IS CONSCIOUS, REMOVE POISONING BY GASTRIC LAVAGE OR EMESIS. (DREISBACH, HANDBOOK OF POISONING, 11TH ED.)

ANTIDOTE:
USE DIMERCAPROL, 3 MG/KG 10% SOLUTION IN OIL, INTRAMUSCULARLY EVERY 4 HOURS FOR THE FIRST 2 DAYS. ANTIDOTES MUST BE ADMINISTERED BY QUALIFIED MEDICAL PERSONNEL. THIS ANTIDOTE IS NOT PROVEN AND IS SUGGESTED ONLY ON RESULTS OBTAINED IN ANIMAL TESTING. (DREISBACH, HANDBOOK OF POISONING, 11TH ED.)

REACTIVITY

REACTIVITY:
STABLE UNDER NORMAL TEMPERATURES AND PRESSURES.

INCOMPATIBILITIES:
MAY REACT VIOLENTLY WITH STRONG OXIDIZERS AND REDUCING AGENTS. WHEN LEAD CHROMATE AND FERRIC FERROCYANIDE WERE BEING GROUND TOGETHER IN A BALL MILL TO FORM CHROME GREEN, A SPARK INITIATED A REACTION THAT PRODUCED A FIERCE FIRE IN THE PIGMENT.

DECOMPOSITION:
WHEN HEATED TO DECOMPOSITION, THE SUBSTANCE EMITS HIGHLY TOXIC FUMES OF LEAD AND FLAMMABLE, CORROSIVE ACETIC ACID.

POLYMERIZATION:
NOT KNOWN TO OCCUR.

CONDITIONS TO AVOID

MAY BURN BUT DOES NOT IGNITE READILY.

SPILL AND LEAK PROCEDURES

OIL SPILL:
DIG HOLDING AREA SUCH AS LAGOON, POND OR PIT FOR CONTAINMENT.

USE PROTECTIVE COVER SUCH AS A PLASTIC SHEET TO PREVENT MATERIAL FROM DISSOLVING IN FIRE EXTINGUISHING WATER OR RAIN.

WATER SPILL:
USE ACTIVATED CARBON TO ABSORB SPILLED SUBSTANCE THAT IS DISSOLVED.

USE SUCTION HOSES TO REMOVE TRAPPED SPILL MATERIAL.

USE DREDGES OR LIFTS TO EXTRACT IMMOBILIZED MASSES OF POLLUTION AND PRECIPITATES.

OCCUPATIONAL SPILL:
DO NOT TOUCH SPILLED MATERIAL. STOP LEAK IF YOU CAN DO IT WITHOUT RISK. FOR SMALL SPILLS, TAKE UP WITH SAND OR OTHER ABSORBENT MATERIAL AND PLACE INTO CONTAINERS FOR LATER DISPOSAL. FOR SMALL DRY SPILLS, WITH A CLEAN SHOVEL PLACE MATERIAL INTO CLEAN, DRY CONTAINER AND COVER. MOVE CONTAINERS FROM SPILL AREA. FOR LARGER SPILLS, DIKE FAR AHEAD OF SPILL FOR LATER DISPOSAL. KEEP UNNECESSARY PEOPLE AWAY. ISOLATE HAZARD AREA AND DENY ENTRY.

PROTECTIVE EQUIPMENT

VENTILATION:
PROVIDE LOCAL EXHAUST VENTILATION SYSTEM TO MEET PERMISSIBLE EXPOSURE LIMIT REQUIREMENTS.

RESPIRATOR:
2.5 MG/M3- ANY DUST AND MIST RESPIRATOR EXCEPT SINGLE-USE.

5 MG/M3- ANY DUST AND MIST RESPIRATOR EXCEPT SINGLE-USE OR QUARTER-MASK RESPIRATORS.
ANY FUME RESPIRATOR OR HIGH-EFFICIENCY PARTICULATE RESPIRATOR.
SUPPLIED-AIR RESPIRATOR.
SELF-CONTAINED BREATHING APPARATUS.

25 MG/M3- A HIGH-EFFICIENCY PARTICULATE RESPIRATOR WITH A FULL FACEPIECE.
SUPPLIED-AIR RESPIRATOR WITH A FULL FACEPIECE, HELMET, OR HOOD.
SELF-CONTAINED BREATHING APPARATUS WITH A FULL FACEPIECE.

250 MG/M3- A POWERED AIR-PURIFYING RESPIRATOR WITH A FULL FACEPIECE AND A HIGH-EFFICIENCY PARTICULATE FILTER.
A TYPE C SUPPLIED-AIR RESPIRATOR OPERATED IN PRESSURE-DEMAND OR OTHER POSITIVE PRESSURE OR CONTINUOUS-FLOW MODE.

ESCAPE- SELF-CONTAINED BREATHING APPARATUS WITH A FULL FACEPIECE OPERATED IN PRESSURE-DEMAND OR OTHER POSITIVE PRESSURE MODE.

FIREFIGHTING- SELF-CONTAINED BREATHING APPARATUS WITH A FULL FACEPIECE OPERATED IN PRESSURE-DEMAND OR OTHER POSITIVE PRESSURE MODE.

CLOTHING:
WEAR IMPERVIOUS CLOTHING. AVOID ANY POSSIBILITY OF CONTACT WITH SUBSTANCE.

GLOVES:
WEAR IMPERVIOUS GLOVES. CONSULT MANUFACTURER FOR SPECIFIC TYPE OF GLOVE FOR PROTECTION AGAINST THIS SUBSTANCE.

EYE PROTECTION:
WEAR FACESHIELD (8 INCH MINIMUM) AND/OR VENTED SAFETY GOGGLES.

PUT-SPICED - OCCUPATIONAL HEALTH SERVICES, INC.
CREATION DATE: 10-19-84 REVISION DATE: 05-14-85

Mr. GAYDOS. Thank you very much.

I just want to make a very hurried note of the fact that our report will be ready on the VDT, so you can have a copy if you will call on our committee. We'll make sure you have a copy of it. I think you will find some revealing information. The committee spent a lot of time, no less than 10 or 15 hearings, and we had a lot of people come in.

I understand from one of the recent publications that that is the only area of collected or amassed documentation relating to VDT's and their real or imagined problems or what have you. We will probably be very short on the copies, but one of them will be made available to you.

Also, I know I don't have to call your attention to our bill, H.R. 1309, which I am sure you're familiar with. We hope to address that aspect of the problem which you so adequately described and set forth in your prepared statement.

Before asking you questions, let me call on Mr. Hayes.

Mr. HAYES. I don't know whether you heard the testimony of the Director of Field Operations from OSHA——

Mr. URQUHART. Yes; I did.

Mr. HAYES. As I categorized his testimony, it is quite different from yours. He depicted the operation as being a smooth-working and improving kind of operation. But your testimony indicates there are problems yet within the system itself. I think you emphasize prevention rather than cure—put in a capsule form, is that right?

Mr. URQUHART. Yes.

Mr. HAYES. As you said, claims and costs can be reduced if we concentrate on some of the methods of prevention within the system itself as it relates to Government employees; am I right?

Mr. URQUHART. Right.

Mr. HAYES. You also emphasize the right to know as an attitude on the part of the agency itself. I just wanted to make sure, Mr. Chairman, that I understood clearly the position of AFGE. Tell my friend Blaylock I said hello, will you?

Mr. URQUHART. I certainly will.

Mr. GAYDOS. On the right to know, you say there are 34 States that have passed right to know. Are they somewhat uniform or do they take varying forms? Do you know offhand?

Mr. URQUHART. I don't know the answer to that, no.

Mr. GAYDOS. Do you think that's a good thing? [Conferring.]

The director informs me that some deal with State statutes, some are community statutes, local ordinances, county ordinances. So I was going to ask you the question, do you think it's good that we have that proliferation and I am sure your answer is going to be it would be much better to be more uniform.

Mr. URQUHART. That's correct. I would like to see the Federal Government take the lead and provide the standard for the entire country. We are happy that States do take their own initiative on this issue, but even with 34 States and municipalities having statutes, there is an awful lot of workers still unprotected.

Mr. GAYDOS. Generally on the right to know, just what do these various statutes or ordinances or what have you usually provide? Do they set up a procedure of effective knowledge?

Mr. URQUHART. One of the main areas that we are concerned with is that the information they are required to provide on the material safety data sheet is information provided by the manufacturer of the chemical. As we have found all too often, those manufacturers tend to understate the hazards associated with the chemical. That is why I introduced the example that I did, and let me just give you an example.

The company stated that as a result of the chemical that they were referring to, they stated on the effects of overexposure that there were no immediate harmful effects. "Repeated breathing of excessive concentrations can cause minor irritation of skin and mucus membranes." But the Occupational Health Services Co. that did an independent study of this found much more severe long-term effects, namely, that:

> Lead chromate is a severe pulmonary irritant, a lung carcinogen, a primary skin irritant and sensitizer, and peripheral neurotoxin. Poisoning may affect the nervous system, gastrointestinal tract, blood and kidneys.

If you read that, it sounds a lot more serious than what was provided on the material safety data sheet.

So we would like to see the resources of the Federal Government, which has data on most of these chemicals, either at NIOSH or EPA or OSHA—I mean, we have a lot of this information—we would like to make sure that we don't rely just on the information provided by the manufacturers themselves but supplement this so that people can get an adequate record of exactly what the hazards are that they're confronting.

Mr. GAYDOS. You heard Director Miles—and I think Mr. Hayes—properly call attention to his very pointed remarks—that everything seemed to be in good, apple-pie order, and that great progress is being made. I did ask him just how the reporting of workmen compensation claims took place, how they came about, and did he have any reservations as far as all of the accidents or compensable accidents being reported and are there some that aren't being reported.

So, on that point, rather than becoming controversial with our good friend, the Director, I want you to put into the record what your position is as far as the reportable workmen compensation claims, what kinds of injuries are being reported or going unreport-

ed, and is this a significant number. I would like to have the record show that because that divergence of conclusions should be very clear in the committee report and record.

Mr. URQUHART. I tried to get information, to try and get an estimate of the percentage of injuries and illnesses that are not reported and claimed. Unfortunately, we don't have the data. We don't have the data because they have not been collecting the information under the FARS Program.

In the private sector I tried to get that estimate. Unfortunately, because workmen's compensation laws vary from State to State, they have no universal standard to compare it against.

But the best experts told me that it is a substantial number. There are categories which aren't covered at all. If there is no claim, if you have no time off the job, occupational diseases in large part are missed.

Second, we know in the private sector that the propensity to file a claim varies according to the State law. We suspect that the propensity of Federal workers to file claims will vary by agency, whether the agency is cooperative or uncooperative, whether employees are pressured not to file claims, et cetera.

The main problem with using FECA data is it raises the potential for abuse, of pressuring people not to file claims, to bring down the statistics. Therefore, without an independent statistical base to measure this, we don't know whether the injury/illness rate is going down or only the claims are going down.

So that's our main fear. We think they should stick with the Federal agency reporting system. They should collect the data they were mandated to collect, that we should have a statistical system similar to the one that BLS runs for the private sector, and then we would be able to answer the question of exactly the relationship between the FECA data and the overall injury/illness rate.

Mr. GAYDOS. In your testimony you refer to occupational diseases as opposed to injuries and illnesses. You voice great concern, and I agree with you. You do make reference to associated problems, especially in the area where it is so difficult to diagnose and discover and then, of course, attribute that diagnosis to the particular problem.

Now, do you have any suggestions as to any methods or procedures we may have to improve either or both of these concerns that you have set forth?

Mr. URQUHART. I'm not prepared on that today. I am sure I could get some of our experts to work on that with you. I think it is recognized in general that it is a serious problem and we would like to see more done on that and developed. But I am not prepared to offer a solution——

Mr. GAYDOS. If you have any information, we can ask you, or you can voluntarily submit it to us. You may have some when you look for it. I understand that you can't bring everything with you. I think it's quite significant.

Mr. HAYES. Mr. Chairman, would you yield for one final question?

Mr. GAYDOS. Sure, I will yield to my colleague.

Mr. HAYES. I just want to get clarity on this. In the statement of the Director, he says that claims data collected under FECA indi-

cates that 15 of the largest Federal agencies are responsible for 98 percent of the Federal employee compensation claims and 97 percent of the resulting compensation costs.

I think you mentioned it somewhere in your statement, but is the Postal Service one of the largest Federal agencies where there is a high incidence of accidents?

Mr. URQUHART. Yes.

Mr. HAYES. Would they maybe be the largest of the 15 he was talking about?

Mr. URQUHART. I'm pretty sure—I don't have the table with me, but I'm pretty sure that's correct, yes.

Mr. HAYES. All right. They would be either first or second?

Mr. URQUHART. Yes, sir.

Mr. HAYES. OK.

Mr. GAYDOS. Even though this committee doesn't have jurisdiction any more over FECA, you did mention in your prepared remarks that there are some people that are injured and they resort to taking time off or vacation time or something. Is that a general practice in the agencies? If you know.

Mr. URQUHART. It's a problem area and I can't testify as to how general it is, because often we only find out about this when an employee comes to us with a problem. But we have seen an increasing number of problems like that, where employees get lost in the system or exhaust their sick leave because they can't get their FECA claim processed, and in many cases they just give up. They just drop the claim.

In other cases, unless it's an extremely serious injury, where the costs are enormous, you might just say the heck with it, it's not worth the hassles they put you through, the running to all the doctors, the filling out of all the forms and doing it two or three times if it's not done right the first time. So there is enormous problems there and we are seeing an increase in the problems that are brought to us.

Mr. GAYDOS. How is the backlog? We have been away from the subject matter for a while. How's the backlog of cases? Is it improved, worse?

Mr. URQUHART. I don't know. I could get that information for you.

I am told that in district 25, which handles claims in this area, the backlog is projected to increase.

Mr. GAYDOS. To increase?

Mr. URQUHART. Yes. We could probably get that information for you.

Mr. GAYDOS. You are cognizant, I am sure, because I believe you were in the room, that some of your submissions and materials submitted are in direct counterdistinction from that given by Director Miles. We will be taking a look at both statements and hopefully try to find out where the accuracy does lie. I am sure it is a matter of opinion from both sides. I want you to know that the committee will look at both viewpoints.

We know the limitations of budget and what it does and how it affects this, and we also know and understand the problems of the employees, especially since we have only had the act in existence for 15 years, roughly. Some people look at it like a glass of water;

it's either half full or half empty, and the same thing with the act. You know, in 15 years, it's a fantastic accomplishment. Someone else would say in 15 years you've wasted a lot of time. So I hope you appreciate a little bit the committee's concern.

Mr. URQUHART. We certainly do.

Mr. GAYDOS. I want to thank you on behalf of the committee, and Mr. Hayes in particular, for taking the time to come back to us when we asked you. You're always well prepared and I appreciate that. We will be in contact with you. As I mentioned before, the VDT report will be ready and we will make sure that those who cooperate with the committee are on the priority list in receiving that information. [Laughter.] We will make sure everybody gets a copy—and that includes the minority, too. [Laughter.]

Thank you very much for appearing. That will conclude this hearing. I can assure you we will continue to exercise our authority to ensure that Federal employees no less than any others have a healthy and safe workplace.

This concludes today's hearing. The subcommittee will stand in recess until Tuesday, June 18, when we will hold a hearing to examine the educational resource centers funded through the National Institute for Occupational Safety and Health. That will be at 9:30 in this room, the time and place usually being uniform.

Thank you very much for appearing.

[Whereupon, at 10:50 a.m., the subcommittee recessed.]

[Material submitted for inclusion in the record follows:]

MAJORITY MEMBERS
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COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
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U.S. HOUSE OF REPRESENTATIVES
MINORITY MEMBERS
MAJORITY STAFF

June 13, 1985

Mr. Michael Urquhart
President Local 12, AFGE
U.S. Department of Labor
P.O. Box 7708
Washington, D.C. 20044

Dear Mr. Urquhart:

Unfortunately, I was unable to attend the June 12 Health and Safety Subcommittee hearing on Federal agency programs.

After reviewing your testimony several questions came to mind which I would appreciate your responding to for inclusion in the hearing record. The questions are attached.

Sincerely yours,

Rod Chandler
Ranking Republican
Health and Safety Subcommittee

Attachment

cc: Honorable Joseph M. Gaydos

Questions for Mr. Urquhart

1. On page 3 of your testimony, you state that "commitment, resources and leadership" are "solely lacking in OSHA's Federal Agency program today." That statement implies a reduction or diminishment by OSHA in these three areas. Excluding the use of FECA verses FARS data, could you please supply the subcommittee with specific examples of:

   A. how OSHA's commitment has diminished and a comparison of what was done previously by OSHA which implied a greater commitment to the Federal Agency program than today's commitment;

   B. availability of resources today as compared with resources previously available to the Federal Agency program; and

   C. what type of leadership in the Federal Agency program previously existed which is not present today.

2. In your prepared statement you mention passage of approximately 34 state or local laws requiring worker right-to-know. Are federal workers in those states or localities covered by any of those statutes?

3. As you know, OSHA has no authority to issue monetary fines to federal agencies for OSHA violations; without using FECA costs what incentive is there for a federal agency head to strive for strong and effective occupational safety and health programs?

4. Does the AFGE support amending the Occupational Safety and Health Act to bring federal employees under OSHA coverage? Such an amendment would also bring federal employees under the type of statistical reporting mandated by Congress and carried out by the Bureau of Labor Statistics for private sector employers.

5. How many members of your union have formally or informally complained harassment or pressure to not file a FECA claim? Please supply us with these specific complaints.

6. Is it your position that if a worker at work sneezes thus dislocating his back that injury would result in a FECA claim?

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RESPONSE OF MICHAEL URQUHART, PRESIDENT
LOCAL 12, AMERICAN FEDERATION OF GOVRNMENT EMPLOYEES

TO QUESTIONS SUBMITTED BY

HONORABLE ROD CHANDLER
RANKING REPUBLICAN
HEALTH AND SAFETY SUBCOMMITTEE
OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

Local 12, AFGE, representing employees at the United States Department of Labor and OSHA Review Commission

QUESTION 1:

On page 3 of your testimony, you state that "commitment, resources and leadership" are "solely (sic) lacking in OSHA's Federal Agency program today." That statement implies a reduction or diminishment by OSHA in these three areas. Excluding the use of FECA versus FARS data, could you please supply the subcommittee with specific examples of:

A. how OSHA's commitment has diminished and a comparison of what was done previously by OSHA which implied a greater commitment to the Federal Agency program than today's commitment;

B. availabilty of resources today as compared with resources previously available to the Federal Agency program; and

C. what type of leadership in the Federal Agency program previously existed which is not present today.

ANSWER:

Under Sec. 19 (a) of Public Law 91-596, the Occupational Safety and Health Act of 1970, the head of each Federal agency is required to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6." Since Federal employees are "covered" by safety and health standards issued under section 6 which are binding on the private sector, they are directly affected by OSHA's progress, or lack of progress if that is the case in establishing safety and health standards. Under the first Reagan Administration, OSHA not only failed to issue standards covering such important toxic substances as benzene, asbestos, formaldahyde.EDB, etc., the agency actually retrenched and rolled back , or proposed significant rollbacks, in safety and health standards in the following areas:

--The Carter Administration's generic cancer policy which would have streamlined the issues and the agency's ability to issue standards for carcinogens was stayed.

--A total of 116 standards actions in various stages of development were proposed for abolition. Only the timely intervention of the Congress and disclosure in the press stopped this unprecedented "standards deletion project" which experts in HHS at the National Institute of Occupational Safety and Health said in a letter to Assistant Secretary Robert Rowland was inappropriate.

--The "right to know" standard proposed by the Carter Administration was dramatically weakened by the Reagan ADministration which restricted coverage, and added trade secret provisions which are viewed by worker organizations as loopholes permitting companies to withhold vitally important information. Fortunately, at least one court (the Third Circit) has held that OSHA's trade secret provisions must be reviewed and the coverage of right to know expanded to all workers unless the agency can show the court that such expansion would be burdensome and unworkable.

--The OSHA noise standard was revised by OSHA's "hearing conservation amendment" which in effect permitted employers to avoid paying for measures

necessary to reduce noise in the workplace by placing devices in workers' ears which restricts their hearing and thereby significantly increases their chance of an injury. The ability to hear is not only aesthetically important it is a safety factor since employees need to be able to hear to react to spoken warnings.

The type of leadership provided by OSHA is reflected in two memos we are supplying you for the record. The first, dated April 18, 1984, is from John Plummer, Director, Office of Federal Agency Programs and is entitled "Hazard Communication". This memo was simply a reminder that management had an existing obligation to obtain MSDS's and "advise employees in the workplace of the hazards involved with materials and to protect them therefrom". This advice has never been revised to reflect the advice from the Solicitor's office, spelled out in a March 17, 1985 memorandum from John J. Hynan, Deputy Associate Solicitor for Occupational Safety and Health. This memorandum, entitled "Application of OSHA's Hazard Communication Standard to Agencies of the Federal Government" makes it clear that legally Federal employees are covered by the Hazard Communication Standard including the MSDS provisions, posting of MSDS sheets, warnings, and training.

The obligation expressed in the Plummer memo is a far cry from the specific requirements of hazard communication which require a written hazard determination plan, master list of hazardous chemicals, prominent workplace area display of MSDS's and warning labels, and chemical specific training of employees and contractor personnel.

OSHA should be developing model training materials to be forwarded to Federal agency safety and health officials, and organizing conferences and workshops for Federal agency safety and health officials to explain to them what is required. Furthermore, OSHA should inform Federal Safety and Health Managers of their extensive and excellent services available through the OSHA Technical Data Center in Washington or comparable technical data centers at the National Institute for Safety and Health in Atlanta, Georgia.

Another example of the lack of committment and leadership is provided in a September 30, 1982 letter to the President from then Secretary of Labor Raymond Donovan. Instead of reporting to the President the findings of his own staff (attached) that Federal workers who file safety and health complaints are in need of improved protection from reprisal from their own agency, Mr. Donovan misinformed the President by telling him that the study found no "reprisal" problems involving safety and health complainants and that no additional safeguards were necessary to protect Federal employees. This leads us to the inevitable conclusion that the Labor Department not only does not want to afford Federal workers the right to know about toxic chemicals in their workplaces, it wants to deny them the effective protection of the OSHA law when or if they complain about unhealthful or unsafe conditions. Without adequate protection from reprisal, predictably complaints from employees fall off. When there are fewer complaints from employees, the Labor Department can then report to the President and to the Congress that complaints are dropping dramatically, indicating that the Federal workplace is becoming safer.

QUESTION 2:

In your prepared statement you mention passage of approximately 34 state or local laws requiring worker right to know. Are federal workers in those states or localities covered by any of those statutes?

ANSWER:

The enclosed table, prepared by the Industrial Union Department, AFL-CIO, lists the 19 states that have enacted state right to know laws and the 14 states now considering such legislation. (The table does not reflect a number of municipalities, such as Cincinnatti, Ohio, which have community right to know laws.) The table indicates which state laws cover workplaces, public safety, and or community activities. The basic separation of powers set forth in the Constitution of the United States as well as state constitutions themselves, would prevent states from asserting jurisdiction over Federal employees. Further, the Occupational Safety and Health Act itself settles the jurisdictional issue you raised by establishing in Section 19, the Federal Agency Safety Program and deliniating its responsibilities.

QUESTION 3:

As you know, OSHA has no authority to issue monetary fines to federal agencies for OSHA violations; without using FECA costs what incentive is there for a federal agency head to strive for strong and effective occupational safety and health programs?

ANSWER:

The present executive order, and other guidelines, are not, in our view, sufficient incentive for Federal agencies or managers to take employee safety and health seriously. What is needed are stronger incentives, such as changes in the way Federal managers are rated, and promoted which can be specifically tied to their performance in employee safety and health. In other words, in order for Federal managers to be eligible for bonus payments, or promotions, they would have to be rated for their handling of safety and health issues along with other aspects of their performance. This would require OPM to make some changes in their policies and procedures.

QUESTION 4:

Does the AFGE support amending the Occupational Safety and Health Act to bring federal employees under OSHA coverage? Such an amendment would also bring federal employees under the type of statistical reporting mandated by Congress and carried out by the Bureau of Labor Statistics for private sector employers.

ANSWER:

Under Section 19, of PL 91-596 (The Occupational Safety and Health Act of 1970) federal employees are already covered. This section of the law requires the head of each federal agency to establish and maintain an effective and comprehensive occupational safety and health program.

Federal agencies are required, among other things, to provide their employees with a safe and healthful place to work. They are required to establish safe conditions in which to work which are consistent with the standards OSHA requires for the private sector. In addition, section 19 (a)(3) of the law, authored by the Congress, requires federal agencies to "keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action." Since the definition of what is considered to be a reportable accident or injury is given elsewhere in the statute, (Sec. 23 (a)) we believe the law clearly requires Federal agencies to maintain injury and illness reporting and recordkeeping systems that are consistent with the law. Section 24 (a) defines the type of injury illness reporting system that should be maintained. According to Section 24 (a) of the law such reports shall include "all disabling, serious, or significant injuries and illnessess, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness restriction of work or motion, or transfer to another job." When section 19 (a)(3) and Section 24 (a) are considered together, the Congressional intent is crystal clear. Federal employees are covered by the law, and further, Federal agencies are required to compile accident and injury statistics that meet the definitions of Section 24 (a). The present BLS guidelines for the private sector provide the best available interpretation and technical assistance for accidents and illness reporting that meets the requirements of Section 24 (a). There has been no evidence presented by OSHA to suggest that FECA workers compensation data meets the requirement of Section 24 (a). In fact, if the FECA data system is similar to most workers' compensation data systems, about 25% to 30% of all injuries and diseases reportable under the broad definition of Section 24 (a) would be irretrievably lost. It is the position of AFGE that the law speaks for itself. In this case, the law clearly covers Federal employees, and the reporting and recordkeeping requirements are imposed by law on the Federal sector. We believe the intent of the law requires OSHA to develop and maintain a statistical system that meets the definitional requirements of the law. However the FECA system can be used if it can be modified to meet the definitional requirements of Section 24 (a) as interpreted in the latest BLS recordkeeping and reporting guidelines.

Thus, we in AFGE can agree to a modified FECA system which would fulfill the reporting and recordkeeping requirements as defined by the OSHA statute in addition to the present data captured by the FECA system. We could support the consolidation of the FARS and FECA systems, but only if the scope of what is reportable is consistent with the Congressional definition given in the law, and consistent with the BLS guidelines for private sector reporting. This is important because what is reportable under the OSHA law is broader than what is reportable under FECA. For example, the OSHA law requires reporting of all cases involving loss of consciousness, whether or not the case involves lost time, medical treatment, or whether or not a FECA claim would be filed. Similarly, OSHA requires reporting of all cases involving restriction of work or motion, or transfer to another job whether or not a FECA claim is filed. The OSHA law also requires reporting of all disabling serious or significant injuries and illnesses, whether or not they involve loss of time from work. An employee could be temporarily overcome by fumes, and after a short period in fresh air ready to resume work. While this might not result in an FECA claim, it would be reportable under the OSHA/BLS reporting requirements. Employees who sustain an injury

that prevents them from completing a shift may elect sick leave or annual leave and may not file a FECA claim if they can return to work the next day. However, since the employee was not able to finish the workshift, the BLS/OSHA guidelines would require this injury to be recorded. In addition, the current draft BLS guidelines require private sector employers to report "essential health events" as described by the National Institute of Safety and Health (NIOSH). These events can be phenomena such as employee threshold shifts in hearing in the presence of noise, changes in blood lead levels where employees are exposed to lead, or other important indicies which are known to be associated with occupational diseases but which may not be in and of themselves be reportable to FECA under present requirements.

QUESTION 5:

How many members of your union have formally or informally complained harassment or pressure to not file a FECA claim? Please supply us with these specific complaints.

ANSWER:

AFGE and other employee unions have experienced a great deal of difficulty, particularly in recent years, in obtaining the kind of prompt and professional review of FECA claims that workers are entitled to. While we can offer anecdotal evidence to the effect that members are having problems, we would welcome efforts by your committee, or GAO, or competent unbiased researchers to further document this problem. We believe the delays and procedural difficulties are having a chilling effect on employee willingness to file FECA claims. As we stated in our testimony, we believe this is encouraging employees to use their sick and annual leave balances, and on many occasions take leave without pay and even work when they are physically impaired.

QUESTION 6:

Is it your position that if a worker at work sneezes thus dislocating his back that injury would result in a FECA claim?

ANSWER:

With respect to the question about a worker who sneezes and thus dislocates his or her back filing a FECA claim we would like to point out that one computerized data file of toxic substances and symptoms has identified at least 73 compounds (see attached list) that can cause sneezing. In addition, some of these compounds can cause sensitization, respiratory failure, and even death. Sneezing, watering eyes, respiratory distress, are all common warning signals to employees that a toxic substance may be present in the workplace. Failure to heed these signals can result in far more serious damage to the exposed employees. For this reason, we maintain that it is important for Federal employees to have the right to know about toxic substances in their workplaces. With this knowledge they can consult the labels, the MSDS' file, or other date, and determine if the sneezing, or other symptoms they may be experiencing are associcated with the compound. This will help them reduce or eliminate exposure, avoid continued inhalation of the compound, and reduce or prevent workers' compensation claims from being filed. Of course, if a workplace exposure to a toxic chemical triggered the sneezing, and caused respiratory injury, or a back injury, it would be appropriate--under those conditions--to file a FECA claim. If, on the other hand, the employee had a cold or a spontaneous sneeze unrelated to workplace conditions, it would not be appropriate to file a claim. The important thing here, however, is that without the proper information on the labels, MSDS's and training workers will not know what kinds of substances they are exposed to, they will not know the warning signs and symptoms, and they will not know what protections they must take to safeguard their lives.

ACRIDINE
ACRYLONITRILE
ALLYL ISOTHIOCYANATE
ALPHA-PENTYL CINNAMALDEHYDE
AMMONIUM BISULFITE
AMMONIUM HYDROXIDE
BISPHENOL
CADMIUM ACETATE
CADMIUM CYANIDE
CADMIUM FLUORIDE
CADMIUM NITRATE
CADMIUM NITRATE TETRAHYDRATE
CADMIUM SULFATE
CADMIUM SULFATE OCTAHYDRATE
CINERIN I
CYCLOHEXYLBENZENE
DIALLYL PHTHALATE
DIISOPROPYL BENZENE
DIPHENYLAMINE CHLOROARSINE
ETHYL CHLOROFORMATE
FERRIC CHLORIDE
FERRIC CHLORIDE SOLUTION
FUMARIC ACID
HEXACHLOROCYCLOPENTADIENE
HEXACHLOROPROPENE
ISOBUTYL ISOCYANATE
ISOPROPYL ISOCYANATE
LITHIUM HYDRIDE
METHALLYL ALCOHOL
METHOXYMETHYL ISOCYANATE
METHYL VINYL KETONE
N-PROPYL ISOCYANATE
NONYLBENZENE
O-CHLOROBENZYLIDENE MALONONITRILE
OCTADECANE
P-CHLOROANILINE
PENTACHLOROPHENOL
PHENYLHYDRAZINE
PHTHALIC ANHYDRIDE
PLATINUM
PLATINUM TETRACHLORIDE
POTASSIUM DICHLORDISOCYANURATE
POTASSIUM HYDROXIDE
POTASSIUM METAVANADATE
PYRETHRUM
SODIUM AMMONIUM VANADATE
SODIUM DICHLORDISOCYANURATE
STRONTIUM CARBONATE
SULFUR DIOXIDE
TANNIC ACID
TERT-BUTYL ISOCYANATE
TETRAMETHYLBENZENE
TETRYL
TRICHLOROACETIC ACID
TRICHLOROBUTENE
TRIISOPROPYLBENZENE
TRIMELLITIC ANHYDRIDE
TRINITROTOLUENE
VANADIUM
VANADIUM DICHLORIDE
VANADIUM OXYCHLORIDE
VANADIUM PENTOXIDE
VANADIUM PENTOXIDE FUME
VANADIUM SULFATE
VANADIUM TETRACHLORIDE
VANADIUM TRIBROMIDE
VANADIUM TRICHLORIDE
VANADIUM TRIOXIDE
WOLLASTONITE
1,1-DICHLORO-1-NITROETHANE
1,2-DIPHENYLETHANE
1,5-DICHLOROPENTANE
3,3'-DICHLOROBENZIDINE

ENTER NAME, KEYWORD, SYNONYM, SILA, NAMELIST, HELP, OR QUIT.

U.S. Department of Labor

MEMORANDUM FOR: TOM McCULLEY
Special Assistant to the Assistant
Secretary for Occupational Safety
and Health

FROM: JOHN J. RYNAN
Deputy Associate Solicitor for
Occupational Safety and Health

SUBJECT: Application of OSHA's Hazard Communication Standard to Agencies of the Federal Government.

ISSUE: Does OSHA's hazard communication standard (29 CFR 1910.1200) apply to agency heads of the U.S. Government?

CONCLUSION: Yes, pursuant to Executive Order 12196, all Federal agency heads are required to comply with all OSHA standards, including the hazard communication standard, regardless of the standard's express application to those employers in certain SIC Codes. Application of the standard to Federal agency heads may not, however, be construed as requiring private employers to take any action with respect to Federal agencies, including supplying material safety data sheets to the agencies.

RATIONALE: The provision of the OSH Act controlling the scope of the Act's coverage is section 3(5) that contains the definition of the term "employer" as used in the Act;1/ that term is broadly defined as "a person engaged in a business affecting commerce...but does not include the United States," thus covering virtually every private sector employer, but excluding the Federal government. Because of

1/ The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

that exclusion, those who work for the Federal Government do not come within the Act's definition of the term "employee."2/ Therefore, the Federal Government and the persons employed by it are not covered by the general provisions of the OSH Act.

Congress, however, did not intend that Federal employees be without protection from workplace hazards, so a special section was included in the OSH Act to provide separate protection for Federal employees otherwise not available to them under the other provisions of the statute. Congress provided that only sections 19 and 24 of the OSH Act apply to the Federal Government. (Section 24 deals with statistics and is not germane to this memorandum's discussion; section 19 is the significant section.) Section 19 requires agency heads to establish and maintain effective job safety and health programs in their agencies to protect the Federal workers employed there. To insure that such programs are effective, the President issued Executive Order No. 12196 which, among other things, requires agency heads to comply with the OSHA standards issued under section 6 of the Act.

The standards issued under section 6 of the Act are designed to apply to employers in the private sector. Thus, because of the Executive Order, the Federal agency heads must regard themselves as the "employers" referred to in OSHA standards. Few problems arise as a result of agency heads having to comply with standards which were designed essentially for application to private-sector employers. However, the application of the hazard communication standard to private-sector employers in designated SIC Codes has raised the question of that standard's application in the Federal sector. It is our opinion that the standard is applicable in the Federal sector according to its terms without regard to the SIC classifications. This is so because, although they are supposed to include government entities performing functions covered by the various codes, SIC classifications are difficult in application to the Federal sector and the clear intent of the Executive Order and Part 1960 is to provide the best protection possible to Federal employees. In any event, we note that the hazard communication standard merely makes more specific those employee training and information requirements already existing in the Executive Order and Part 1960.

As mentioned earlier, private-sector employers are not required to furnish the Federal agency heads with material safety data sheets. The Occupational Safety and Health Act is designed to provide safe and healthful workplaces by requiring private sector employers to protect employees by complying with OSHA standards. Federal workers, as explained previously, are excluded from the Act's definition of "employee." Hence, a private-sector employer is not required to protect Federal workers by supplying agency heads with material safety data sheets under the hazards communication standard.

2/ The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

Washington, D.C. 20210

Reply to the Attention of

Letter
T. 4/18/84

APR 18 1984

MEMORANDUM TO: Agency Safety and Health Officials

FROM: John E. Plummer, Director
Office of Federal Agency Programs

SUBJECT: Hazard Communication

On November 25, 1983, OSHA printed a final rule in the Federal Register on Hazard Communication, 29 CFR 1910.1200. The rule states: "The standard requires chemical manufactures and importers to assess the hazard of chemicals which they produce or import, and all employers having workplaces in the manufacturing division Standard Industrial Classification (SIC) codes 20 through 39, to provide information to their employees concerning hazardous chemicals by means of hazard communication programs including labels, Material Safety Data Sheets (MSDS), training, and access to written records." As written, the rule will not require manufacturers or importers to furnish Material Safety Data Sheets to Federal agencies. It is anticipated, however, that chemical manufacturers and importers will furnish MSDS on Government purchases when the rule becomes effective in November 1985.

The Hazard Communication standard, 29 CFR 1910.1200, does not change the requirements that have existed which place a responsibility on each agency to obtain MSDS on all hazardous materials and, as stated in 29 CFR Part 1960.34(d), ". . . advise employees in the workplace of the hazards involved with materials and to protect them therefrom." The Department of Defense (DOD) maintains a hazardous material data bank, containing approximately 25,000 items, which is available to all Federal agencies as stated in 29 CFR Part 1964.34(c).

Attached are excerpts from several sources which show that each agency has to secure MSDS on hazardous materials and that employees must be informed of the hazards. For this to occur, there must be close cooperation between agency procurement personnel and safety and health officials. An MSDS supplied by a manufacturer that is allowed to be filed with an invoice is useless.

If this office can be of help in setting up a hazard communication program in your agency, please call us.

Attachments

Reagan's Occupational And Environmental Health Record

OSHA Record

The Reagan Administration has virtually stopped the 10 years of continuous progress under the Occupational Safety and Health Act. Since 1981, Reagan's OSHA has produced only one court-ordered health standard and has all but ceased effective enforcement actions.

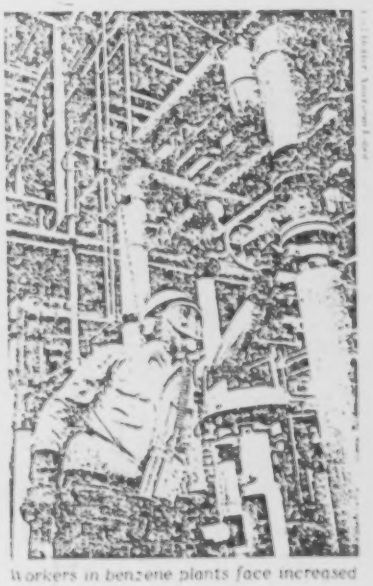
Prior to the Reagan Administration, 500 exposure limits and comprehensive health standards had been promulgated by OSHA on 24 hazardous agents such as vinyl chloride, asbestos, cotton dust, lead, coke oven emissions and arsenic. Over the first four years, only one health standard has been issued -- on ethylene oxide (ETO) -- and it was ordered by the federal courts because of OSHA's failure to set an emergency standard on this deadly carcinogen.

As for enforcement actions, OSHA's record since 1980 has been equally dismal and includes:

- 16 percent decline in actual inspections;
- 45 percent decline in the number of workers covered by such inspections;
- 30 percent cut in OSHA's enforcement budget;
- 70 percent decline in vinyl chloride inspections;
- 65 percent decline in arsenic inspections;
- 94 percent decline in coke oven emission inspections;
- 47 percent decline in citations for serious violations;
- 92 percent decline in citations for intentional violations;
- 75 percent decline in total dollar amount of fines levied.

The Occupational Disease Problem

Battery workers are at risk of reproductive damage due to lead exposure.



Workers in benzene plants face increased risk of leukemia.

Workplace Exposure

Millions of workers are regularly and needlessly exposed to toxic chemicals, wastes, fumes, dusts, and industrial processes as an integral part of their jobs. Over time, such exposure causes a variety of occupational diseases, such as cancer, heart disease, nervous and brain disorders, reproductive damage, miscarriages, birth defects in workers' children, and a host of others. For the most part, these occupational diseases are not compensated by the existing state-based workers' compensation systems.

The exposed worker populations include millions of workers exposed to cancer-causing substances or processes, including:

- 2 million workers exposed to benzene with a risk of leukemia up to five times greater than normal;
- 2.5 million workers exposed to asbestos, many with a risk of lung cancer five times greater than normal;
- .5 million workers exposed to arsenic with a risk of lung cancer often two to five times greater than normal;
- 1.5 million workers exposed to chromium, some with a risk of cancer five to nine times greater than normal; and
- 1.4 million workers exposed to nickel, some with a risk of cancer five to 10 times greater than normal.

Examples of other non-carcinogenic, but nevertheless dangerous, workplace exposures include:

- 7 million workers exposed to industrial noise, at risk of hearing loss;

2 million workers exposed to carbon monoxide poisoning;

1 million women workers of childbearing age exposed to chemicals that cause miscarriage and birth defects;

1 million workers exposed to silica dust at risk of lung disease; and

800,000 workers exposed to cotton dust, at risk of brown lung disease.

These and many other hazardous workplace exposures take a terrible toll on American workers. Some 100,000 die each year from occupational disease. Indeed, of all the cancers that occur among blue collar workers in the U.S., at least 25 percent are caused by workplace exposures.

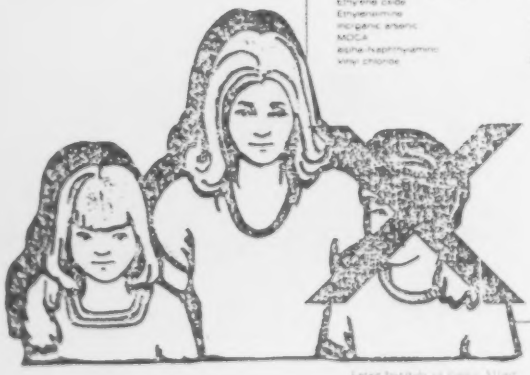
Moreover, family members of exposed workers also suffer higher rates of disease. For example, the children of paperworkers suffer higher rates of brain cancer than children of non-paperworkers, and family members of asbestos workers suffer high rates of mesothelioma, a cancer of the chest and stomach lining that is extremely rare in non-asbestos-exposed populations.

Foundry workers are exposed to silica, which is associated with lung disease.

Major Worker Populations Exposed to Carcinogens/ Carcinogenic Processes

Regulated as Carcinogenic	Population at Risk
Acrylonitrile	125,000
Asbestos	2,479,900
benzidine	2,200
Coke oven emissions	10,000
4-Dimethylaminoazo-benzene	28,500
Ethylene oxide	100,000
Ethyleneimine	4,000
Inorganic arsenic	1,400,000
MOCA	9,200
alpha-Naphthylamine	40,470
Vinyl chloride	3,546,700

Unregulated as Carcinogenic	Population at Risk
Asphalt fumes	500,000
Benzene	2,976,000
Beryllium	30,000
1,3-Butadiene	50,000
Cadmium	100,000
Carbon tetrachloride	56,500
Chloroform	40,000
Chromate pigments	550,000
Cutting fluids	780,000
Epichlorohydrin	65,000
Ethylene dibromide	560,000
Ethylene dichloride	34,000
Formaldehyde	100,000
Furniture	348,000
Hexamethylphosphoramide (HMPA)	5,000
Hexavalent chromium	175,000
Hydrazine and salts	100,000
Isopropyl refining	141,000
Methylene chloride	70,000
Nickel (oxides)	1,400,000
2-Nitropropane	100,000
n-Phenyl-beta naphthylamine	15,000
Polychlorinated biphenyls (PCB)	12,000
Tetrachloroethylene (PCE)	280,000
Vinyl bromide	26,000
Vinyl fluoride	32,000
Vinylidene chloride	56,000
Woodworking	3,346,000



State Right-to-Know Laws

State Laws Enacted

Year Enacted	State	Workplace	Public Safety	Community
1979	Maine	X		
1980	California	X		
1980	Connecticut	X	X	
1980	Michigan	X		
1980	New York	X		
1981	West Virginia	X		
1981	Wisconsin	X		
1982	Minnesota	X		
1983	Alaska	X		
1983	Illinois	X	X	
1983	Massachusetts	X		X
1983	New Hampshire	X	X	X
1983	New Jersey	X	X	X
1983	Rhode Island	X	X	X
1984	Delaware	X	X	
1984	Florida	X	X	
1984	Iowa	X	X	X
1984	Maryland	X	X	
1984	Pennsylvania	X	X	

States With Legislation Under Consideration

Colorado
Georgia
Kentucky
Louisiana
Michigan
Missouri
Nebraska
North Carolina
North Dakota
South Carolina
Tennessee
Texas
Vermont
Washington

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Occupational Safety and Health Act of 1970, Section 19, states that "It shall be the responsibility of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program. . . ." Executive Order 12196, issued February 26, 1980, and 29 CFR 1960, issued October 21, 1980, further define requirements to be met by agencies in protecting the safety and health of Federal employees. Part 1960.46(a) requires that "The head of each agency shall establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or an unhealthful working condition. . . ." Included in 29 CFR 1960 was a requirement that the Secretary of Labor should survey government agencies to determine the extent and adequacy of their reprisal prevention procedures and report the results to you by the end of September 1982.

Of the ninety questionnaires sent out, sixty-seven were completed and returned. Results of the survey indicate that most agencies rely on existing grievance procedures as a safeguard against reprisals based on safety and health complaints. Approximately two-thirds of the Federal employees are covered by negotiated grievance procedures which permit the filing of complaints. This is in addition to the rights the employees have to appeal adverse action and to report allegations of harassment and retaliation to the Special Counsel of the Merit Systems Protection Board, which in turn involves an agency's Inspector General. This is quite different from the situation in private industry in which only 20% of all employees are organized. Moreover, all Federal agencies are required to have effective grievance procedures whether or not there is a negotiated agreement. This insures that non-union employees in all agencies are adequately protected against reprisal actions of any sort.

We did, however, determine that in a few agencies there is some confusion about the use of these procedures to prevent reprisal action against employees filing safety or health complaints, and that employees may lack information on how to report hazards and the safeguards provided by the grievance procedure to prevent reprisal actions. It is our intention, therefore, to

provide assistance to other Federal agencies in clarifying and publicizing the use of these procedures to prevent reprisal actions in relation to the filing of safety and health complaints. We consider this action preferable to establishing a separate reprisal prevention system to cover just occupational safety and health complaints.

The purpose of a reprisal prevention program is not to restrict the ability of agency management to take action, but rather to facilitate the removal of safety and health hazards which cause significant numbers of fatalities and disabling injuries at a cost to the Federal government of nearly 2 billion dollars annually; the cost to the injured and their families is in terms of unnecessary suffering which cannot be quantified or compensated.

I solicit your support for the above recommendation.

Sincerely,

Raymond J. Donovan

MEMORANDUM TO: John D. Miles, Jr., Director
Office of Field Coordination

FROM: John E. Plummer, Director
Office of Federal Agency Programs

SUBJECT: Report to the President Recommending Improvement in the Investigation and Resolution of Allegations of Reprisal

This memorandum sets forth our findings and recommendations for improvements in the procedures for the investigation and resolution of allegations of reprisal. This report is made pursuant to requirements set forth in 29 CFR 1960.46(b) and is based on my evaluation of agencies' procedures for protecting employees from reprisals. It will be transmitted to the President in the form of a letter. (See attached drafts.)

On June 23, 1982, a questionnaire was transmitted to 90 Federal Government agencies. The purpose of the questionnaire was to determine the effectiveness of the reprisal procedures required by 29 CFR 1960.46(b).

Sixty-three responses were received from the 90 questionnaires, representing approximately 97% of the Federal work force. We have analyzed these responses and have found that there is a need to improve the reprisal procedure of all Federal agencies. Most significant is the fact that only 23 of the 63 agencies have incorporated reprisal rights and responsibilities into their safety and health programs. Of the 23 agencies mentioned, only 11

agencies have incorporated all the requirements of 29 CFR 1960.46(a). Although 11 agencies have incorporated all the reprisal rights and responsibilties into their safety programs, even they are grossly inadequate to ensure compliance with 29 CFR 1960.46(a) (see Appendix C). 29 CFR 1960.46(a) requires that:

> "The head of each agency shall establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Act, Executive Order 12196, or this part. These rights include, among other, the right of an employee to decline to perform his or her assigned task because of a reasonable belief that, under the circumstances the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established in accordance with this part."

Recommendations for improvement in Procedure for Investigation and Resolution of Allegations of Reprisal

(1) We recommend that increased emphasis be given to the Occupational Safety and Health Program of the Federal Government with specific emphasis on the reprisal procedure. This is based on the fact that Federal employees, in the past, haven't been made aware of their rights to be free of reprisal, as outlined in 29 CFR 1960.46(b); as a result, there should be a government-wide effort to enlighten them.

(2) Transmit to each agency a model reprisal procedure to be incorporated in the agency's safety and health program, giving a due date by which the procedure is to be published and distributed

to employees and incorporated into the agency safety and health program. (See model in Appendix A.)

(3) Require that each agency establish a reprisal investigative unit, which shall be responsible for the investigation of all allegations of reprisals. Require that the unit answer directly to the Department Head or one of his deputies.

(4) Require that the Office of the Inspector General, within the agency, take over this function and that disciplinary action be recommended for supervisors or others who are responsible for actions of reprisal.

(5) Prohibit the use of the grievance procedure as the primary means of exercising the right of reporting reprisals. The rational is that employees who exercise a right under 29 CFR 1960 should not have to grieve to protect this right. Further, arbitration may not be adequate to protect these right and to insure that compliance is gained if a safety or health violation is found to exist. If use of the grievance procedure is continued, require that a memo be sent to all employees to that effect. (See model letter in Appendix B.)

(6) Establish a task force to study the reprisal problem, which would then make recommendations to the President.

(7) Make safety performance a item in the evaluation of each supervisor and emphasize the right of employees to be free from reprisal action in the item.

(8) Because of the small number of reprisals reported, reprisals could be investigated by the ORO of the Department of Labor. Since this unit investigates reprisals in the private sector, it could with slight modification investigate and process allegations of reprisals in Federal agencies. Since court action is not contemplated, the ORO officer could present the case to an appropriate authority for action if a valid action of reprisal is found to exist.

(9) Revise 1960 to incorporate stronger language.

(Appendix A)

Model Reprisal Procedure

1. The employee may file an allegation of reprisal with an agency official designated to handle such without fear that he has violated the chain of command.
2. The report of reprisal may be oral or written.
3. The safety and health report, which is the basis of the reprisal allegation, may be oral or written.
4. The official designated to handle allegations of reprisal shall investigate the allegations thoroughly and honestly and shall file a written report to the Agency's Designated Safety and Health Official (DASHO). These reports shall be filed in a central file and not in personnel files.
5. Files concerning allegations of reprisal shall be made available to the Secretary of Labor, or his designated representative, upon request.
6. The employee subject to an action of reprisal shall not be required to use the negotiated grievance procedure as a means of securing an investigation of his allegations.
7. When it is not clear whether the action taken was an action of reprisal is or a disciplinary action, but through investigation it was determined that disciplinary action was proper, the employee shall be informed, in writing, that disciplinary action was being taken, clearly setting forth the basis of the (Appendix A-2) disciplinary action. When it is found

that reprisal was taken, and a grievance may have been proper under the grievance procedure, the employee's right to grieve shall not be lost due to any misunderstanding as to the proper cause of action.

8. If an employee is unable to file an action of reprisal with his agency, he shall contact the Office of Federal Agency Programs, Occupational Safety and Health Administration, U.S. Department of Labor, for appropriate assistance.

9. Nothing shall preclude the affected employee from filing a report directly with the Office of the Inspector General.

10. The right to file action of reprisal shall extend to all employees, including supervisors.

11. If the agency has a certified safety and health committee, it shall be informed of all action of reprisal by the Designated Agency Safety and Health Officer.

(Appendix B)

Allegations of Reprisal

1. This agency has established procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in the (agency's) occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 CFR 1960.

2. These rights included, among others, the right of an employee to decline to perform his or her assigned task because of a reasonable belief that under the circumstances the task poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is sufficient time to seek effective redress through normal hazard reporting and abatement procedures established in accordance with 29 CFR 1960.

3. The Director, Division of Organization and Personnel, shall keep the appropriate occupational safety and health committee advised of agency activity regarding allegations of reprisal and any agency determinations thereof. Investigative findings shall be made available to the Secretary of Labor and to the appropriate safety and health committee.

4. Grievance procedures for those employees who believe they have been subjected to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition are contained in the following sources, as appropriate:

   a. _____

   b. _____

   c. _____

(Appendix C)

Eleven Agencies which Mention all Factors set forth in 29 CFR 1960.46(a)

#24 Department of Defense

Procedure sets forth the circumstances under which an investigation should be made and that the Office of I.G. should conduct it.

#26 Department of Energy

a) may file under grievance procedures
b) may file unfair labor change
c) could be strengthened if reprisal complaints come to attention of safety and health office.

#29 Department of Interior

While grievance procedure is elaborate, employees are not advised that a reprisal allegation can be grieved under this procedure; it does not provide for non-bargaining employees.

#32 Department of State

a) will make reprisal report to safety director
b) he will investigate to determine if 1960 has been violated
c) appropriate relief if allegations are substantiated.

#34 Department of Transportation

a) report actions of reprisal to safety and health official
b) safety and health shall document report
c) employee can appeal to head safety and health official of facility
d) head official shall review resolution for appropriateness.

#43 Consumer Product Safety Commission

The directive does not give a procedure to follow in the case of reprisals.

#44 Environmental Protection Agency

a) employee may file (1) oral or (2) written report
b) to director of safety and health staff
c) director will insure anonymity

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c) will investigate if within staff capability or
e) refer to IG
f) may file with OPM merit protection
g) file directly with I.G.
h) director of safety and health will advise safety and health committee with findings
i) provide committee with findings
j) provide employee and bargaining representative with findings.

#72 Nuclear Regulatory Commission

Specifies that grievance procedure shall be followed.

#88 Veterans Administration

1. Set forth elements:

   a) freedom from reprisal
   b) participation in safety and health programs
   c) exercise rights under Act and Executive Order
   d) right to decline work implied (ie) will follow Executive Order and 12196.

2. No real procedure spelled out stating:

   a) where to file reprisal report
   b) whom to file with
   c) no investigation procedure outlined
   d) no appeal procedure noted if employee disagrees with supervisor's investigation.

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Occupational Safety and Health Act of 1970, Executive Order 12196 and 29 CFR 1960 requires the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program for the protection of Federal employees. One important requirement of an effective program is to protect Federal employees from actions of reprisal for participating in their agency's program or for reporting unsafe and unhealthful working conditions.

A recent study by Occupational Safety and Health Administration which covered 97% of all Federal employees indicated that most agency reprisal procedures are inadequate to protect employees from acts of reprisal. Further, the study indicated that:

1. The Federal government need to increase its efforts to protect Federal employees from actions of reprisal by providing a standardized procedure for the reporting and investigation of acts of reprisal.

2. There is a wide disparity in the handling of allegations of reprisal and that this has created the need to devise a more fair and equitable procedure.

3. Employees are not informed of their right to be free of reprisals, coercion and discrimination as a result of making a safety or health complaint.

4. Employees are hesitant of using the present reprisal procedure and of reporting unsafe or unhealthful working conditions.

5. The use of negotiated grievance procedures is inadequate since they exclude large members of employees.

In light of these findings, we propose that you direct all Federal agencies to cooperate with the Department of Labor in its efforts to improve the enforcement of the reprisal procedure. We propose that a committee be established immediately under the Federal Advisory Committee on Occupational Safety and Health which will recommend a unified policy to be adheared to by all Federal agencies.

Your agreement with this proposal will greatly enhance the safety and health programs that affects millions of Federal employees.

Name of Agency	Does Agency Address Reprisal Procedures in S & H Program	Provide for other participation in Safety & Health Prg.	Provide for review of rights under Art and E.O. 11246	Provide for right to decline work felt to be unsafe	Different procedure for bargaining/non-bargaining employees	Adequate notice to employees - Reprisal rights	No. of Reprisal Allegations	No. with merit	Who conducts Investigations	Copy of Investigation report to S/L
77. Pension Benefit Guaranty Corporation	Not Received									
78. Postmaster General 683	No	No	No	No	Yes	Yes	one	non	Grev Pro.	No
79. Railroad Retirement Board	No	No	No	No	No	Yes	None	N/A	Bur Dir.	N/A
80. Securities and Exchange Commission	No	No	No	No	No	Yes	None	N/A	EEO	N/A
81. Selective Service System	No	No	No	No	No	Yes	None	N/A	Off Adm.	N/A
82. Small Business Administration	No	No	No	No	No	Yes	None	N/A	Empl Rela	N/A
83. Smithsonian Institution	No	No	No	No	X	Yes	None	N/A	Mgt Offl	N/A
84. Tennessee Valley Authority	Not Received									
85. U.S. Arms Control and Disarmament Agency	Yes	Yes	Yes	Yes	No	Yes	None	N/A	Sfty Dir.	N/A
86. International Trade Commission	No	No	No	Yes	No	Yes	None	N/A	EEO Offr	N/A
87. U.S. Soldiers' and Airmen's Home	No	No	No	No	Yes	Yes	None	N/A	S&H Coun	N/A
88. Veterans Administration 250	Yes	Yes	Yes	Yes	Yes	Yes	one	X	Grev Eng.	No
89. Agency for International Development	No	No	No	No	Yes	Yes	None	N/A	Empl Rela	N/A
90. Water Resources Council										
Total	23	17	17	13	9	61	3	1	vars	most will if ther are repr to send

Report on Revisions to

29 CFR Part 1960

(Federal Accident Reporting System)

6 January 1983

TO: Federal Agency Committee on Occupational Safety and Health (FACOSH)

FROM: Standing Committee on Federal Occupational Safety and Health

SUBJECT: Proposed Revisions to 29 CFR 1960

Background:

FACOSH at its October 6, 1982 meeting:

- Endorsed the FARS subcommittee proposal to modify the Federal Accident Reporting System (FARS) to use Federal Employees Compensation data in lieu of the OSHA Form 102F, Annual Summary of Federal Occupational Injuries and Illnesses, and to change to a fiscal year base.

- Transferred to the Standing Committee for its review and recommendation, the proposed changes to 29 CFR 1960 that the FARS subcommittee had developed for implementation of the aforementioned.

Action:

The Standing Committee has reviewed the CFR proposals and has unanimously endorsed them.

Recommendation:

That FACOSH:

1. Accept this report.

2. Approve the submitted changes to 29 CFR 1960 (attached).

3. Forward the CFR changes to OFAP for publication processing with an effective date of October 1, 1983.

John E. Plummer, Chairman
Standing Committee on Federal
Occupational Safety and Health

Enclosure
29 CFR 1960 Changes

Federal Accident Reporting System
29 CFR 1960

	Existing Language	Proposed Revision
1960.2	(j) The term "incidence rates" means the number of injuries and illnesses, or lost workdays, per 100 full-time workers. Rates are calculated as $\frac{N \times 200{,}000}{EH}$. N = number of injuries and illnesses, or number of lost workdays. EH = total hours worked by all employees during a month, a quarter, or a calendar year. 200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).	(j) The term "incidence rates" means the number of injuries and illnesses, or lost workdays, per 100 full-time workers. Rates are calculated as $\frac{N \times 200{,}000}{EH}$. N = number of injuries and illnesses, or number of lost workdays. EH = total hours worked by all employees during a month, a quarter, or fiscal year. 200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).
1960.2	(l) The term "lost workday cases" means injuries and illnesses which involve days away from work and/or days of restricted work activity. "Lost workdays—away from work" means the number of workdays (consecutive or not) during which the employee would have worked but could not because of an occupational injury or illness. "Lost workdays—restricted work activity" means the number of workdays (consecutive or not) during which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis; (2) The employee worked at a permanent job less than full time; or (3) The employee worked at a permanently assigned job but could not perform all duties normally connected with the job.	(l) The term "Lost Workday Cases" means injuries and illnesses which involve days) or parts of days away from work beyond the date of injury. "Lost Workdays - Away from Work" means the number of workdays (consecutive or not) during which the employee would have worked but could not because of an occupational injury or illness.

1960.2

(n) The term "medical treatment" includes treatment administered by a physician, or by licensed or registered professional personnel under standing orders of a physician, for an occupational injury or illness which does not result in days away from work or days of restricted work activity. "Medical treatment" does not include first aid treatment, even though provided by a physician or licensed or registered professional personnel. For further details and specific examples of what is considered first aid treatment versus medical treatment, see OSHA 2014, Recordkeeping and Reporting Guidelines for Federal Agencies.

(o) The term "recordable occupational injuries or illnesses" means any occupational injuries or illnesses which result in:

(1) Occupation-related deaths regardless of the time between injury and death, or the length of illness;

(2) Nonfatal occupational illnesses; or

(3) Nonfatal occupational injuries which involve one or more of the following: days away from work or days of restricted work activity; loss of consciousness; restriction of work or motion; transfer to another job; or medical treatment.

(p) The term "reporting unit" means an establishment, except as otherwise agreed between the agency and the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor, as provided in § 1960.74.

(n) The term "medical treatment" includes treatment administered by a physician, or by licensed or registered professional personnel under standing orders of a physician, for an occupational injury or illness which does not result in days away from work. "Medical treatment" does not include first aid treatment, even though provided by a physician or licensed or registered professional personnel. For further details and specific examples of what is considered first aid treatment versus medical treatment, see OSHA 2014, Recordkeeping and Reporting Guidelines for Federal Agencies.

(o) The term "recordable occupational injuries or illnesses" means any occupational injuries or illnesses which result in:

(1) Occupation-related deaths regardless of the time between injury and death, or the length of illness;

(2) Nonfatal occupational illnesses; or

(3) Nonfatal occupational injuries

which involve days away from work or medical treatment.

§ 1960.29 Accident investigation.

(a) While all accidents should be investigated, including accidents involving property damage only, the extent of such investigation shall be reflective of the seriousness of the accident.

(b) In any case, each accident which results in a fatality or the hospitalization of five or more employees shall be investigated to determine the causal factors involved. Except to the extent necessary to protect employees and the public, evidence at the scene of an accident shall be left untouched until inspectors have an opportunity to examine it.

(c) Any information or evidence uncovered during accident investigations which would be of benefit in developing a new OSHA standard or in modifying or revoking an existing standard should be promptly transmitted to the Secretary.

(d) The investigative report of the accident shall include appropriate documentation on date, time, location, description of operations, description of accident, photographs, interviews of employees and witnesses, measurements, and other pertinent information. A copy of the investigative report required by this section shall be forwarded to the official in charge of the workplace, the appropriate safety and health committee, and the exclusive employee representative, if any. The investigative report shall be made available to the Secretary or his authorized representative on request.

No Change

NO CHANGE

Subpart I—Recordkeeping and Reporting Requirements

§ 1960.66 Purpose, scope and general provisions.

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data, for proper evaluation and necessary corrective action and to assist the Secretary in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The term "incident" as hereinafter used in this subpart, shall include all occupational injuries and illnesses.

(b) In order to perform his duties under section 19 of the Act and Executive Order 12196, particularly with respect to providing the President with current information about the Federal agency safety and health programs, it is necessary that the Secretary be promptly informed of serious incidents involving agency employees as provided in § 1960.70. Assistance to agencies in the investigation of such incidents is available pursuant to the provisions of Executive Order 12196 and this subpart.

(c) Each agency shall utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities.

(d) The Department of Labor shall provide Federal agencies with the forms and instructions for meeting the recordkeeping and reporting requirements specified in §§ 1960.67, 1960.68, and 1960.69.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the forms provided by the Department of Labor.

(f) Information required to be submitted to the Department of Labor by this subpart may be submitted on media processable by electronic data processing equipment provided that such media comply with the requirements of the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor.

(g) Information concerning occupational injuries and illnesses or accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy, shall be recorded on separate forms. Such records shall not be submitted to the Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses

§ 1960.67 Record or log of Federal occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses for each establishment. Except as provided in § 1960.71 (b) and (c), the log is to be maintained at the establishment.

(b) Within six working days after receiving information on a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 100F, or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions contained therein.

(c) As a minimum, any occupational injury or illness reported by an employee on a Form CA–1 or CA–2 (except first aid cases) to the Office of Workers' Compensation Programs, Department of Labor, shall be considered recordable on the log.

NO CHANGE

§ 1960.68 Supplementary record of Federal occupational injuries and illnesses.

In addition to the record or log of Federal occupational injuries and illnesses provided for under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that a recordable occupational injury or illness has occurred. For this purpose, OSHA Form No. 101F, or its equivalent, shall be completed in the detail required by the forms and the instructions therein.

§ 1960.68 Supplementary record of Federal occupational injuries and illnesses.

In addition to the record or log of Federal occupational injuries and illnesses provided for under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that a recordable occupational injury or illness has occurred.

For this purpose, OSHA Form No. 101F, or OWCP Forms CA1/2 or the equivalent, shall be completed in the detail required by the forms and the instructions therein.

§ 1960.69 Annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a calendar year basis, shall compile an annual summary of occupational injuries and illness for each reporting unit listed and submitted pursuant to § 1960.74. The summaries shall be based on the record or log of Federal occupational injuries and illnesses maintained pursuant to § 1960.67. OSHA Form No. 102F shall be used for this purpose, and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each agency shall furnish the Department of Labor with a copy of its annual summaries compiled on the basis of reporting unit no later than 60 calendar days after the close of the calendar year.

1960.69 Annual Summaries of Federal Occupational Injuries and Illnesses.

(a) Each Federal agency, on a fiscal year basis; shall compile an annual summary of occupational injuries and illnesses as prescribed in OSHA Publication 2014. The summaries shall be based on the record or log of occupational injuries and illnesses maintained pursuant to Section 1960.67.

(b) At the agency's option, and consistent with the Privacy Act considerations and applicable collective bargaining agreements, the record or log of Federal occupational injuries and illnesses may be posted in lieu of the Annual Summary of Federal Occupational Injuries and Illnesses.

(c) Each agency shall furnish the Department of Labor with a copy of its summary upon request of the Secretary.

§ 1960.70 Reporting of serious accidents.

(a) Within 48 hours after the occurrence of an employment accident, the head of the Federal agency shall report by telephone or telegraph to the Office of Federal Agency Safety and Health Programs:

(1) Any occupational accident which is fatal to one or more employees;

(2) Any occupational accident which results in the hospitalization of five or more employees;

(3) Any occupational illness which results in death;

(4) Any occupational accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees.

Accidents not immediately reportable, but which result in death within six months of the date of the accident, shall be reported within 48 hours of the time the employer becomes aware of the death.

(b) The report shall relate the circumstances of the accident, names of individuals involved, any actions taken by the agency, the number of fatalities, and/or injuries and illnesses and the extent of any injuries. The Secretary may require such additional information in writing or otherwise, as he deems necessary.

NO CHANGE

§ 1960.71 Location and utilization of records and reports.

(a) The provisions of this section, dealing with the availability of information compiled pursuant to this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to subpart D of this part.

(b) The log and supplementary records required by §§ 1960.67 and 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of these records. These records shall be complete and as current as possible; in no case shall more than 45 days elapse after the recording of an illness or injury occurring in an establishment and the availability of records reflecting that injury or illness at that establishment.

(c)(1) For agencies engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies thereof, may be maintained at a place to which employees report each day.

(2) For personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the log and supplementary records, or copies thereof, may be maintained at the base from which personnel operate to carry out their activities.

NO CHANGE
1960.71(a) through (c)(2)

1960.71

(d) Each Federal agency shall post a copy of the annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.68, at such establishment, not later than 45 calendar days after the close of the calendar year, or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(d) Each Federal agency shall post a copy of their agency annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.68, at such establishment, not later than 45 calendar days after the close of the fiscal year or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

1960.71 (e) The head of each agency shall ensure access to establishment logs and annual summaries by establishment of Occupational Safety and Health Committees, and by that establishment's employees, former employees and employee representatives.

(f) Agency safety and health inspectors shall also have access to accident, injury and health records maintained under this subpart and in accordance with the provisions of § 1960.28(a)(1).

NO CHANGE
1960.71(e) through (f)

§ 1960.72 Access to records by Secretary.

The records required to be maintained under the provisions of this subpart shall also be available and made accessible to the Secretary or his authorized representative (including personnel of the National Institute for Occupational Safety and Health).

NO CHANGE

§ 1960.73 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the calendar year to which they relate, at any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards.

§ 1960.73 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the fiscal year to which they relate, at any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards.

§ 1960.74 Identification of reporting units.

(a) Each Federal agency shall submit a new list identifying reporting units to the Department of Labor, ATTN: Office of Federal Agency Safety and Health Programs, no later than July 1, 1981, and shall update the list as changes occur. The list shall contain the following information:

(1) The names and addresses of each Federal reporting unit which will be covered in the records and reports required by this subpart.

(2) A brief description of any differences between an agency's internal recordkeeping and reporting system and the recordkeeping and reporting system provided by this subpart, including differing forms.

(b) Any Federal agency created or reorganized after July 1, 1981 shall submit the above information within sixty working days of commencement of operations as a new entity.

DELETE 1960.74 IN ITS ENTIRETY

§ 1960.75 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by April 1 of each year a report describing the agency occupational safety and health program of the previous calendar year, and objectives for the current year. The report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) The Secretary shall furnish guidelines to agency heads by January 1 each year concerning the preparation of this report for the coming year.

(3) The agency reports shall be used in the preparation of the Secretary's report to the President.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

§ 1960.76–1960.77 [Reserved]

§ 1960.75 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by February 1 of each year a report describing the agency occupational safety and health program of the previous fiscal year, and objectives for the current year. The report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) The Secretary shall furnish guidelines to agency heads by January 1 each year concerning the preparation of this report for the coming fiscal year.

(3) The agency reports shall be used in the preparation of the Secretary's report to the President.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

§ 1960.76–1960.77 [Reserved]

MR. NASH: That being done, the committee's recommendation no longer stands up.

[Laughter]

MR. NASH: Do we move on now to the third part?

CHAIRMAN AUCHTER: Yes, sir.

MR. NASH: Okay.

Proposed Revision to
29 CFR 1960
(Federal Accident Reporting System)

MR. NASH: The third portion of our report is on the proposed changes to 29 CFR 1960.

What we are dealing with here is that in past meetings the Federal Action Systems Reporting Systems group has made recommendations to change the reporting coming up to the Department of Labor by primarily doing away with the 102(f) form that is submitted annually to the Department of Labor, for many reasons—and we have discussed this in the past—and we would substitute using the workers' compensation data; also primarily changing from a calendar year base to a fiscal year base.

That has been discussed in the past.

The FACOSH, at the last meeting, transferred the proposed changes to 29 CFR 1960 to the standing committee, asked them to review and make recommendations.

The committee has met, reviewed it, recommends unanimously that the report be accepted.

That being the case, unless there is — Well, let me open it to questions.

Are there any questions with regard to the technical changes that are being proposed? Primarily, they are just substituting the OWCP data for the 102(f) form; the agencies would not have to submit that, they are already submitting that through workers' compensation; you would change from a calendar year to a fiscal year; and it makes a couple of other minor changes.

It does away with reporting units as a paragraph because, again, the reporting units was in there mainly so that they would know who is going to send the 102(f) form in to the Department of Labor.

Are there any technical questions?

MR. TAYLOR: I would like to ask you if the difficulties of getting anything else except lost work days reported by the federal workers' comp' first injury reports prompted you to remove anything except lost work days to be reported on this form?

MR. NASH: Well, actually we are not removing anything in the sense that what is reported to the workers' compensation office in the terms of compensation forms is any injury or illness that results in a medical bill having to be submitted for payment or results in lost time.

So you could actually have a none-lost time injury

or an illness or a case of restricted work days being reported under the compensation system.

It is not limited solely to that.

We have dropped the terminology —

MR. TAYLOR: Yes, I see that.

MR. NASH: — 'restricted work days' because to be honest with you under the comp' system there would be no way of really defining it as it has been defined before.

But, secondly, we found that really the Department of Labor nor the agencies were really finding this of any value to them. The primary emphasis still came out on lost work day cases or lost work time cases, or injuries and illnesses in general.

So we really didn't increase our analysis or the effectiveness of our reporting by having restricted work days. It became cumbersome.

With this system now of OWCP you get a good portion of it but not all of it so we felt this was not critical.

MR. TAYLOR: Well, I don't know how you feel about this, Thorne, but I don't know how the end product of reporting injuries and illnesses under the system that is proposed here and the current system could be comparable.

It seems to me there is a degree of separateness, differentness in the way that you are doing this, particularly in having first-injury forms rather than doing what had been

done in the past, which is just filling out the log and annual summary, so forth and so on.

I'm asking this. I'm not taking a position, I'm asking. The idea is whether or not you gain anything except ease for federal management in reporting under a system that you already have in workers' comp'.

There are certain weaknesses in the states' workers' comp' program; and I'm not well enough acquainted with the federal workers' comp' to know whether there are the same weaknesses in terms of validity of data at present.

CHAIRMAN AUCHTER: George?

MR. PLUMMER: The one thing that we have here is a total universe of cases, which of course you don't have on the private sector where you have the states in workers' comp' and a myriad of different laws.

We feel this is much stronger because we do get the total universe of cases that require medical attention.

Before, the agencies reported what they wanted to on the federal agency reporting system, the FAR system, which was the statistical system that we used for computing our average, our rates.

We feel that this is not subject to their whim. This is subject to the law. They have to report it. If there is an injury that requires compensation it is in there and it is reported.

So we feel it is a much better system and it is a system which covers the total universe out there.

CHAIRMAN AUCHTER: In addition to that, we did run more than a spot check, we ran a test comparison between the OWCP data and the FARs data, and the FARs data was virtually ludicrous with all the holes in it. I mean, it was terrible.

MR. McCULLY: An example of that would be in 1980 FARs showed 115 federal deaths; OWCP showed 415.

Some of that you have to factor out for automobile accidents, but still.

MR. TAYLOR: Let me ask you, what caused this underreporting? What was the basis of the underreporting? Not reporting by the federal agencies these deaths to cover up for the deaths, or the system itself; or what conclusion did you arrive at as to why there was a difference between the 400 deaths reported under one system and the 100-odd reported under another system?

Was it under the two systems or the way things operated otherwise?

CHAIRMAN AUCHTER: Under the FAR system, the things just weren't being reported.

Now, as to why, I guess it was just falling through the cracks, I don't know.

MR. NELSON: Well, I don't think that's entirely on the deaths.

Now, you are picking up on the workers' comp' deaths of long-time cases that we quit tracking.

If you compare what we were reporting on FARs with the current year occurrences, at least in the case of DOD we got pretty good correlation.

CHAIRMAN AUCHTER: Well, that's true, Stu; but that is another problem with the FAR system. There was tremendous disparity —

MR. NELSON: Yes.

CHAIRMAN AUCHTER: — from department to department.

MR. NELSON: Well, that may be.

MR. TAYLOR: What Stuart says is correct as far as when you get into the private sector. You get first-injury reports from, say, the State of Wisconsin workers' comp' system. Well, none of those first-injury reports may be not only on workers who are in the work place, but people who had gone and applied for workers' comp' even after they had retired or put in the hospital, or something like that.

That is somewhat similar to what you said as far as that FAR system applied to the federal government is concerned. You are dealing with two different entities.

One is an immediate thing and the other is that it might be cumulative, like somebody gets asbestos.

MR. BLAYLOCK: Yes.

The OWCP records will show occupational disease

rather than just traumatic injury. FARs was primarily reporting traumatic injury, and that was loose as hell.

CHAIRMAN AUCHTER: If you take a look at the two possibilities and the two systems, clearly the system you want to use is OWCP and we could find no particular use for the FAR system.

It was a report. Some of them did it. Some didn't. A lot of gliches in it. A lot of holes in it. And frankly we knew that.

DR. FAIRMAN: There was also a big credibility problem when GAYDOS hearings. They are using one set of numbers; the agencies are recording another set of numbers; and, to be honest with you, the committee looked at the disparity of reporting not in terms of fatalities but in terms of injuries and illnesses and the perception was that we had more credibility with workers' compensation systems than we do with the reporting systems we have, generally.

MR. TAYLOR: There are two things here. I guess we have to make do, again. That's the only thing you have there and there are weaknesses to it.

On the basis of the fact that I haven't made a particular study of the FARs system, I will take everybody's work for it including my labor people that it does have those elements of weakness in it.

But at the same time I do have a concern about when

say for example an officer goes up on the Hill and testifies and he says, "Here is our data on illnesses and injuries," and a Congressman asks him a question.

He says, "Well, would you break this down to the federal and private sector?" I think it is important that all of us realize that we are not dealing with perhaps identical entities in terms of the data that comes in because I don't think your federal system does pick up all the injuries that might not result in lost work days or recorded activity around the plant.

I just don't think it's sensitive enough to do that because lots of time there may not be an occupational physician or a nurse or anything in a particular work place where somebody who cuts off the end of his finger or bruises himself just gets lost somewhere.

So I am just saying that you have to - speaking for the agency you have to make these differentiations because otherwise the Congressman is going to say, "Well, you have a certain ratio in the federal government of number of lost work day injuries per 100 and over in the private sector you have something different.

"Why is this so?"

It might be a result of not having an understanding of why this data covering federal employees is based on certain elements which are not present in the private sector.

MR. NASH: The point is well taken. -

What we were saying is when Department of Labor gives data to GAYDOS, okay?, and then we, let's say, come in as an agency and tell them what our experiences are, the numbers weren't jibing.

There was a big discrepancy without even looking at the private sector. This is internally within the federal government.

MR. NELSON: I would point out one thing.

If this system that you are proposing, the whole subject of shifting over to the worker comp' system, if we are really going to get the maximum advantage out of it we should recognize and the Department of Labor should do something about changing what is on those CA forms, the claim submittal forms, so that we have a better way of pinpointing causal data.

That is something that needs to be done and we could help them do.

CHAIRMAN AUCHTER: Stu, that is one of the subjects under discussion with we at OWCP and their computer experts.

MR. NELSON: And this seems a very appropriate effort for this standing committee or a group of the standing committee to assist if you need that kind of assistance.

MR. PLUMMER: Stu, level two of ESA's OWCP program

is now coming into being and we are working with them.

In fact, we had a meeting yesterday with OWCP. John was there; BLS; et cetera. And now is the time when OWCP is changing their system to make those changes.

In a meeting with Assistant Secretary Auchter and the Assistant Secretary of ESA, they agreed to make whatever changes they — ESA was receptive to it.

So we will now go ahead working with them to make those changes in there.

MR. NASH: If there are no other questions, then, or comments, we would move to have the FACOSH accept the report, initiate approval of the 29 CFR 1960 changes as attached with the indication that they would go into effect 1 October of '83.

MR. BLAYLOCK: Seconded.

CHAIRMAN AUCHTER: Seconded by Mr. Blaylock.

You put that on the record, Ken. I appreciate that.

MR. BLAYLOCK: I notice you caught that.

CHAIRMAN AUCHTER: Any further discussion?

[No response]

CHAIRMAN AUCHTER: All those in favor?

[Chorus of ayes]

CHAIRMAN AUCHTER: Opposed like sound.

[No response]

CHAIRMAN AUCHTER: Okay.

COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

June 13, 1985

Mr. John B. Miles, Jr.
Director of Field Operation
OSHA/DOL
200 Constitution Avenue
Washington, D.C. 20210

Dear Mr. Miles:

Unfortunately, I was unable to attend the June 12 Health and Safety Subcommittee hearing on Federal agency programs.

After reviewing your testimony several questions came to mind which I would appreciate your responding to for inclusion in the hearing record. The questions are attached.

Sincerely yours,

Rod Chandler
Member of Congress

Attachment

cc: Honorable Joseph M. Gaydos

QUESTIONS FOR OSHA

1. What action if any, has DOL and/or OSHA taken on the safe use of video display terminals?

2. What is the total number of members serving on FACOSH?

   2(a) How many of the FACOSH members are agency head representatives?

   2(b) How many of the FACOSH members are union representatives?

3. Did FACOSH recommend the use of FECA data in lieu of FARS data?

4. If so, what was Mr. Blaylock's position on the use of FECA data?

5. If there was discussion of this at FACOSH please supply the subcommittee with copies of the pertinent transcript pages.

6. The AFGE charged that FECA data for targeting federal agencies should not be used because FECA focuses on compensation, not prevention and the data is inadequate for illness recognition. What is your response to these allegations?

7. How was FARS data arrived at and how does that differ from FECA data?

The Honorable Rod Chandler
House of Representatives
Washington, D.C. 20515

Dear Congressman Chandler:

We are pleased to answer the questions you raised in your letter of June 13. The questions and answers are as follows:

1. What action, if any, has DOL and/or OSHA taken on the safe use of video display terminals?

   The Department of Labor, Departmental Safety and Health Committee, has proposed a policy for employees which is intended to primarily reduce work fatigue and eye strain from use of VDT's. The policy, when fully implemented, will:

   - Provide VDT units with adjustable tables and chairs. (Acquisition and installation of such equipment is underway.)
   - Have proper placement of units so lighting will be sufficient and operators will be protected from glare. (This is also being implemented.)
   - Provide rest breaks so visual fatigue and/or muscular tension will be at a minimum. (Operators have rest breaks as needed.)
   - Have visual testing for VDT operators before beginning such work and have periodic eye examinations. (Such a formalized program has not been started.)
   - Institute a Department program to increase DOL supervisory and employee awareness of proper VDT usage. (This program has been inaugurated in some parts of DOL.)
   - Keep abreast of developments and seek expert advice from leaders, such as National Institute for Occupational Safety and Health (NIOSH).

OSHA has followed the research studies made by NIOSH. Testimony before the Subcommittee on Health and Safety, Committee on Education and Labor, by the Director of NIOSH included these observations:

- VDT's are not a source of dangerous radiation.
- There is some evidence VDT's can increase both physical and emotional stress.
- Although NIOSH did not see any physiologic mechanism whereby VDT's could impair reproductive functions, as yet they do not have the information to definitely rule out this possibility. A major epidemiologic study is being inaugurated by NIOSH to answer this question.

2. What is the total number of members serving on FACOSH?

There are sixteen members on FACOSH. A membership roster is enclosed.

2(a) How many of the FACOSH members are agency head representatives?

Eight members of FACOSH represent Federal agencies.

2(b) How many of the FACOSH members are union representatives?

Eight members represent labor organizations.

3. Did FACOSH recommend the use of FECA data in lieu of FARS data?

FACOSH endorsed the proposed change from FARS to FECA at its meeting on January 12, 1983.

4. If so, what was Mr. Blaylock's position on the use of FECA data?

Mr. Blaylock seconded the motion to adopt the FECA data - see page 54 of the enclosed transcript of the January 12, 1983, FACOSH meeting.

5. If there was discussion of this at FACOSH please supply the subcommittee with copies of the pertinent transcript pages.

   There was discussion on this subject as shown in pages 45 through 54 of the January 12, 1983, meeting, transcript enclosed. Also, enclosed is a copy of the Subcommittee on Federal Accident Reporting System's report proposing the change from FARS to FECA.

6. The AFGE charged that FECA data for targeting Federal agencies should not be used because FECA focuses on compensation, not prevention and the data is inadequate for illness recognition. What is your response to these allegations?

   Neither FARS nor FECA data provide statistical information that identifies causes and the results of injuries. The FECA data does provide the total numbers of cases and compensation costs. It is true that current FECA data combines injuries and illnesses into a total case figure. The Office of Workers' Compensation Programs has stated, however, that illnesses comprise about three percent of the total compensation cases. We believe, therefore, that the use of total cases and compensation costs to pinpoint agencies or establishments which show increases is a fair method of targeting installations in need of help. Additionally, compensation figures from OWCP are required to be furnished under the OWCP Act subject to penalties for misreporting. OSHA is working with OWCP to adapt compensation reporting data to include causal data which will increase its usefulness as a prevention tool.

7. How was FARS data arrived at and how does that differ from FECA data?

   FARS data was prepared by the individual agencies as summaries of injuries/illnesses, as shown on logs maintained by the agencies, and there was no way to verify its accuracy. FECA data is determined by the number of compensation claims filed with OWCP and the costs are those which OWCP accumulates and charges back to the agencies.

We appreciate your interest in the Federal safety and health program.

Sincerely,

John B. Miles, Jr.
Director
Directorate of Field Operations

Enclosures

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